

Appointment

From: Burton, Tamika [burton.tamika@epa.gov]
Sent: 4/19/2018 3:51:33 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Carroll, Carly [Carroll.Carly@epa.gov]

Subject: Deputy Wheeler Ethics Training with Justina Fugh
Location: WJC-N 3412

Start: 4/23/2018 2:00:00 PM
End: 4/23/2018 3:00:00 PM
Show Time As: Tentative

Appointment

From: Burton, Tamika [burton.tamika@epa.gov]
Sent: 4/19/2018 3:51:33 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Carroll, Carly [Carroll.Carly@epa.gov]

Subject: Deputy Wheeler Ethics Training with Justina Fugh
Location: WJC-N 3412

Start: 4/23/2018 2:00:00 PM
End: 4/23/2018 3:00:00 PM
Show Time As: Tentative

Sct: Tamika Burton, 564-4711

Appointment

From: Wheeler, Andrew [wheeler.andrew@epa.gov]
Sent: 4/20/2018 6:40:33 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Ethics Training with Justina F.
Location: WJC-N 3412
Start: 4/26/2018 8:00:00 PM
End: 4/26/2018 9:00:00 PM
Show Time As: Busy

Message

From: Griffo, Shannon [Griffo.Shannon@epa.gov]
Sent: 7/25/2018 8:04:19 PM
To: Konkus, John [konkus.john@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Wheeler meetings with former clients

Here are my thoughts for Justina to opine on when she returns from her meeting -

Deliberative Process / Ex. 5

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Konkus, John
Sent: Wednesday, July 25, 2018 3:12 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 3:02 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Hi John,

Deliberative Process / Ex. 5

Am copying Shannon Griffo of EPA Ethics as she has a lot of experience with the pledge.
Justina

From: Konkus, John
Sent: Wednesday, July 25, 2018 2:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler meetings with former clients

From: Corbin Hiar [mailto:chiar@eenews.net]
Sent: Wednesday, July 25, 2018 1:56 PM
To: Press <Press@epa.gov>
Subject: Wheeler meetings with former clients

Hi, we're planning to report in tomorrow's Greenwire on several meetings Wheeler has had with four former clients that appear to violate the letter or spirit of the Trump ethics pledge or EPA recusal statement he signed.

The meetings in focus involve Darling Ingredients (June 26), Archer Daniels Midland (May 24), the South Coast Air Quality Management District (June 22) and Mark Sutton, the chairman and CEO of International Paper (June 6, June 28 and 29).

In signing the ethics pledge, Wheeler vowed to "not for a period of two years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients." All of the previously mentioned meetings with former clients took place during his first three months in office.

The pledge also requires former lobbyists like Wheeler to not participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls." Faegre filed a termination report for Wheeler's lobbying work with Darling on July 19, 2016, less than 24 months before his EPA public calendar shows he met with his former client.

And in his EPA recusal statement, Wheeler acknowledged that "If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective." None of the meetings appears to have included five parties.

With all that in mind, how do these meetings not violate the ethics pledge? Were there four other parties in the meetings that weren't listed in Wheeler's public calendar? If not, how did those meetings not violate his recusal statement, particularly the ones with Sutton, since the statement specifically prohibits him "from participating in any particular matter involving" International Paper? Has Wheeler obtained ethics waivers to participate in any meetings, particularly the ones mentioned above?

Also, does Wheeler still stand by his statement, made to Bloomberg on June 27, that "If I lobbied on something, I don't think it's appropriate for me to participate"?

Please get back to me with any additional information or comments by Thursday at 10 a.m.

Best, C

Corbin Hiar

E&E News Reporter

O: 202 446 0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/25/2018 8:00:07 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: Wheeler meetings with former clients

Would you both mind taking a look at this draft statement:

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 3:02 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Hi John,

Deliberative Process / Ex. 5

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From: Konkus, John
Sent: Wednesday, July 25, 2018 2:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler meetings with former clients

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, July 25, 2018 1:56 PM
To: Press <Press@epa.gov>
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Please get back to me with any additional information or comments by Thursday at 10 a.m.

Best, C

Corbin Hiar
E&E News Reporter
O: 202 446 0438
M: Personal Phone / Ex. 6
T: [@corbinhiar](https://twitter.com/corbinhiar)

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS
122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news
Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 7/24/2018 9:40:05 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]; Konkus, John [konkus.john@epa.gov]
Subject: FW: NYT request - questions on Mr. Wheeler's recusals

Hi Justina,

Checking on this pursuant to our conversation earlier this afternoon.

Personal Matters / Ex. 6

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Friedman, Lisa [mailto:lisa.friedman@nytimes.com]
Sent: Tuesday, July 24, 2018 10:20 AM
To: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>
Subject: NYT request - questions on Mr. Wheeler's recusals

Hi John,

I'm sorry not to have heard back from you since our July 11 request to schedule a discussion with Justina Fugh about Acting Administrator Wheeler's recusal decisions.

I'm including here a number of specific questions that I'll need answers to by 10 a.m. tomorrow.

1. The lobbying disclosure act requires "specific issues that have already been addressed or are likely to be addressed in lobbying activities." But Mr. Wheeler's lobbying disclosures for many of his clients over the past 2 years only cite generalities like 'energy and environment issues.'

I'd like to know the specific bills or issues Mr. Wheeler lobbied on and before which agencies he lobbied in the past two years for the following clients: Murray Energy; Darling Ingredients; Xcel Energy; Energy Fuels Resources; and Sargento Foods.

2. Can Mr. Wheeler describe his full involvement in either conceptualizing, writing or otherwise lobbying on the 'Action Plan' memo that Mr. Murray delivered to several members of the Trump administration in March 2017.

3. According to emails released by DOE, Mr. Wheeler arranged the meeting with Sec. Perry at which Mr. Murray delivered his action plan. Under the lobbying disclosure act, that's considered lobbying.

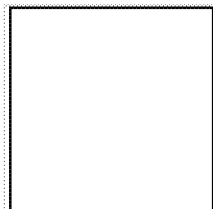
Can Mr. Wheeler explain then the reasoning behind not recusing himself from the issues outlined in the letter that are direct EPA issues including effluent guidelines; endangerment finding; Paris agreement; ozone regs; staffing levels of the EPA; and cross-state air pollution regs.

4. What was Mr. Wheeler's involvement in the nearly identical memo dated March 28, 2017 to former Administrator Scott Pruitt?

4. What was Mr. Wheeler's involvement in the proposed executive orders that Mr. Murray drafted regarding effluent guidelines; MACT rule; NAAQS; Cross-State Air Pollution Rule; and the Paris Agreement?

Finally, I'd like to reiterate that we'd prefer to do this in person, but two weeks is a more than reasonable time for us to have waited. Thank you again,

Lisa



--

Lisa Friedman
Reporter, New York Times
(202) 862-0306 office

Personal Phone / Ex. 6 cell

Message

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 7/24/2018 5:13:26 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: NYT request - questions on Mr. Wheeler's recusals

Hi Justina- I just connected with Matt and wanted to see if you could help him/OPA on these as **Personal Matters / Ex. 6**
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 I would appreciate it. Thanks, Kevin.

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 24, 2018, at 11:04 AM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

From: "Konkus, John" <konkus.john@epa.gov>
Date: July 24, 2018 at 10:22:10 AM EDT
To: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: FW: NYT request - questions on Mr. Wheeler's recusals

Matt: As we discussed a few weeks back...

From: Friedman, Lisa [mailto:lisa.friedman@nytimes.com]
Sent: Tuesday, July 24, 2018 10:20 AM
To: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>
Subject: NYT request - questions on Mr. Wheeler's recusals

Hi John,

I'm sorry not to have heard back from you since our July 11 request to schedule a discussion with Justina Fugh about Acting Administrator Wheeler's recusal decisions.

I'm including here a number of specific questions that I'll need answers to by 10 a.m. tomorrow.

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Finally, I'd like to reiterate that we'd prefer to do this in person, but two weeks is a more than reasonable time for us to have waited. Thank you again,

Lisa



--

Lisa Friedman
Reporter, New York Times
(202) 862-0306 office

Personal Phone / Ex. 6 cell

Message

From: Kunding, Kelly [kunding.kelly@epa.gov]
Sent: 7/23/2018 5:31:42 PM
To: Keith, Jennie [Keith.Jennie@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: Urgent: Seeking Guidance

Jennie -

Thank you for your email. I'd be happy to talk with you on Thursday. What time works best for you?

Thanks,

Kelly

On Jul 23, 2018, at 1:30 PM, Keith, Jennie <Keith.Jennie@epa.gov> wrote:

Kelly,

I am doing a much longer training in the next couple weeks on embedding ethics into the calendaring process. It will be much more in-depth than the hour I gave you and the other scheduling folks last December. One of the areas the training covers is how to have effective relationships between ethics and the scheduling staff (this will become an agency-wide training). So, let's talk before-hand about our communications practices so that it will help me inform the training I conduct later.

Does Thursday look good for you this week?

Thanks!

Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Thursday, July 19, 2018 2:22 PM
To: Kunding, Kelly <kunding.kelly@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Urgent: Seeking Guidance

Hi Kelly,

It was funny, but Jennie called me right after you called. She and I agreed that we didn't have a problem with the contractor-supplied boat. I like your idea of getting together to talk about how to communicate. I mean, we know we're all busy, but we should be able to figure this out! Sorry I was snappish on the phone today ... having a bad day.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Kundinger, Kelly
Sent: Thursday, July 19, 2018 2:17 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Urgent: Seeking Guidance

Jennie -

Thank you for your quick reply. I appreciate your guidance.

Have a wonderful afternoon!

Kelly

On Jul 19, 2018, at 2:00 PM, Keith, Jennie <Keith.Jennie@epa.gov> wrote:

Good afternoon Kelly,

There are no ethics issues with this plan. Since the boat is under contract with the EPA, and EPA pays for its use, this is not considered a gift. We are procuring a service and paying for it.

Thanks!
Jennie for OGC/Ethics

From: Kundinger, Kelly
Sent: Thursday, July 19, 2018 9:43 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Urgent: Seeking Guidance

Good morning Jennie & Justina –

I am writing this morning because Acting Administrator Wheeler is going to be visiting the New Bedford Superfund Site next Wednesday, July 25th. In order to see the progress they have made at this site, Region 1 has requested that we take a boat into the harbor so that we can see the work they have accomplished.

The boat we would be using is owned by the Region 1 remediation contractor, therefore, the EPA is already paying for it to be used for anything having to do with the cleanup.

Please let me know if you need any further information.

Thank you,

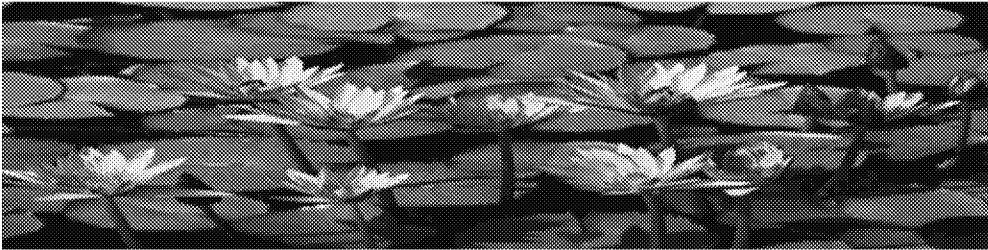
Kelly Kundinger
Deputy Director of Scheduling and Advance
Kundinger.Kelly@epa.gov
202-568-9879

Message

From: Hooks, Samantha [hooks.samantha@epa.gov]
Sent: 7/18/2018 3:10:27 PM
To: Keith, Jennie [Keith.Jennie@epa.gov]
CC: Zenick, Elliott [Zenick.Elliott@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]; Ting, Kaytrue [Ting.Kaytrue@epa.gov]
Subject: RE: Recusal List for the Acting Administrator

Thank you, Jennie! I am cc'ing Kaytrue Staley who requested this list.

*Samantha S. Hooks
Program Assistant
Office of General Counsel
Air and Radiation Law Office (ARLO)
Room 7340G
(202) 564-5569 (office)
(202) 564-5603 (fax)*



From: Keith, Jennie
Sent: Wednesday, July 18, 2018 11:03 AM
To: Hooks, Samantha <hooks.samantha@epa.gov>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Recusal List for the Acting Administrator

Sam,

You called me just now because one of your attorneys inquired about whether the Acting Administrator is recused from any type of work. Please see the attached document and OGC/Ethics is happy to discuss with staff if there are any questions. The Agency is continuing to use the attached document even though the Deputy Administrator is now the Acting Administrator. The items are the same. Thank you for this important question!

Jennie for OGC/Ethics

Jennie Keith | Ethics Officer | Office of General Counsel | US EPA | Mail Code 2311A | Room 4313 North,
William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip
code) | phone 202-564-3412 | fax 202-564-1772

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/11/2018 3:55:20 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: FW: Request for background conversation Wednesday or Thursday
Attachments: 2018_5_24 Wheeler Recusalletter.pdf; 2017_3_20 OGE Interpretation of Trump Ethics Order LA-17-03.pdf

Justina: **Deliberative Process / Ex. 5**

From: Eric Lipton [mailto:lipton@nytimes.com]
Sent: Wednesday, July 11, 2018 11:49 AM
To: Konkus, John <konkus.john@epa.gov>; Lisa Friedman <lisa.friedman@nytimes.com>
Subject: Request for background conversation Wednesday or Thursday

Hello John

Lisa Friedman and I have been looking at Andrew Wheeler's recusal letter and his lobbying registration forms, and the 2017 letter from the Office of Government Ethics that defines what the recusal requirements are for former registered lobbyists. Both attached below.

It would be extremely helpful if we could speak on background with Justina Fugh in OGC ethics program so we make sure we understand how the EPA is interpreting these rules and what the language in the recusal letter really means. **Even if this is an off the record conversation, it would be very helpful and important.**

This is something we are considering writing a piece about this week. But more broadly, it is something that we need to accurately and fully understand moving forward.

For example, the rescual letter for Mr. Wheeler lists only Energy Star as an issue that he handled related to EPA. Obviously, he had a number of clients that had a much broader range of issues before the agency. But perhaps this recusal letter is essentially staying that Mr. Wheeler did not work on any of these EPA related issues, before the Congress or any other entity, in the prior two years. As my reading of the OGE March 2017 issue suggests to me that if he handle any matters before any government agency that is an EPA related matter--even if he did not contact the EPA--he would have to recuse himself on the "particular matter of general applicability," as explained below.

This is complicated, nuanced, but VERY important stuff. We really do think that the EPA would be best served by talking this through with us in a very detailed way. And it seems like Justina is the best person, as she understand the law and this particular case.

The end goal is to have a situation where when you read our stories you think that we are accurately interpreting what the recusal letter means.

Can we have this conversation sometime today (WEDNESDAY) or Thursday?

Thanks in advance

Eric and Lisa

Here are some paragraphs from a March 2017 OGE memo

II. Paragraph 7: “Specific Issue Area”

Executive Order 13770 prohibits an appointee from participating in any particular matter on which the appointee lobbied during the two-year period before being appointed or in the “specific issue area” in which that particular matter falls. *See* E.O. 13770, sec. 1, par. 7; E.O. 13490, sec. 1, par. 3. **The Counsel to the President’s office has advised OGE that, as used in Executive Order 13770, the term “specific issue area” means a “particular matter of general applicability,” and OGE has accepted the Administration’s interpretation of this term.** Although “specific issue” and “general issue area” are used in the context of the Lobbying Disclosure Act (LDA), the term “specific issue area” is not used in that context. *See* E.O. 13770, sec. 2; *see also* 2 U.S.C. §§ 1602, 1603(b)(5), 1604(b)(2). Although the term “specific issue area” appeared in Executive Order 13490, it was not defined in any guidance issued during the eight years in which that executive order remained in effect.

OGE has issued guidance distinguishing two types of particular matters: “particular matters involving specific parties” and “particular matters of general applicability.” *See* 5 C.F.R. § 2640.102(l)-(m); *see also* OGE Inf. Adv. Op. 06 x 9 (2006). The latter is broader than the former. *Id.* **This difference in breadth is relevant in determining the scope of the recusal, as illustrated in the following example:**

An appointee was a registered lobbyist during the two-year period before she entered government. In that capacity, she lobbied her agency against a proposed regulation focused on a specific industry. Her lobbying was limited to a specific section of the regulation affecting her client. Her recusal obligation as an appointee is not limited to the section of the regulation on which she lobbied, nor is it limited to the application of the regulation to her former client. Instead, she must recuse for two years from development and implementation of the entire regulation, subsequent interpretation of the regulation, and application of the regulation in individual cases.

Eric Lipton

The New York Times

Washington Bureau

202.862.0448 office

Personal Phone / Ex. 8 mobile

lipton@nytimes.com

UNITED STATES OFFICE OF GOVERNMENT ETHICS



March 20, 2017
LA-17-03

LEGAL ADVISORY

TO: Designated Agency Ethics Officials

FROM: David J. Apol
General Counsel

SUBJECT: Guidance on Executive Order 13770

Executive Order 13770 rescinds Executive Order 13490 and requires “appointees” to sign a new ethics pledge comprising several commitments. *See* E.O. 13770, sec. 1 (Jan. 28, 2017). Last month, the U.S. Office of Government Ethics (OGE) issued Legal Advisory LA-17-02 (Feb. 6, 2017) to provide initial guidance on Executive Order 13770. Subsequently, OGE discussed with the Counsel to the President’s office OGE’s prior guidance on Executive Order 13490 and the meaning of several paragraphs of Executive Order 13770. Based on these discussions, this Legal Advisory identifies the parts of OGE’s issuances on Executive Order 13490 that are applicable to Executive Order 13770 and provides additional guidance.

I. Applicability of Prior Guidance to Executive Order 13770

As previously indicated, OGE’s prior guidance on Executive Order 13490 is applicable to Executive Order 13770 to the extent that it addresses language common to both executive orders. Therefore, all substantive legal interpretations in the following Legal Advisories are applicable to Executive Order 13770: DO-09-005, DO-09-007, DO-09-010, DO-09-014, DO-09-020, DO-10-003, and LA-12-10. The following Legal Advisories remain valid in part, as specified in annotations that now appear in the versions posted on OGE’s website: DO-09-003, DO-09-011, DO-10-004, and LA-16-08. For the convenience of ethics officials and employees, an enclosed table highlights certain language common to both executive orders and references prior guidance that is applicable to Executive Order 13770.

II. Paragraph 7: “Specific Issue Area”

Executive Order 13770 prohibits an appointee from participating in any particular matter on which the appointee lobbied during the two-year period before being appointed or in the “specific issue area” in which that particular matter falls. *See* E.O. 13770, sec. 1, par. 7; E.O. 13490, sec. 1, par. 3. The Counsel to the President’s office has advised OGE that, as used in Executive Order 13770, the term “specific issue area” means a “particular matter of general applicability,” and OGE has accepted the Administration’s interpretation of this term. Although “specific issue” and “general issue area” are used in the context of the Lobbying Disclosure Act (LDA), the term “specific issue area” is not used in that context. *See* E.O. 13770, sec. 2; *see also*



2 U.S.C. §§ 1602, 1603(b)(5), 1604(b)(2). Although the term “specific issue area” appeared in Executive Order 13490, it was not defined in any guidance issued during the eight years in which that executive order remained in effect.

OGE has issued guidance distinguishing two types of particular matters: “particular matters involving specific parties” and “particular matters of general applicability.” *See* 5 C.F.R. § 2640.102(l)-(m); *see also* OGE Inf. Adv. Op. 06 x 9 (2006). The latter is broader than the former. *Id.* This difference in breadth is relevant in determining the scope of the recusal, as illustrated in the following example:

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III. Paragraphs 1 and 3: Post-Government Employment Lobbying Restrictions

The ethics pledge under Executive Order 13770 establishes two post-Government employment lobbying restrictions. The restriction in paragraph 1 of the ethics pledge prohibits a former appointee, for five years after terminating employment with an executive agency, from engaging in lobbying activities “with respect to” that agency. *See* E.O. 13770, sec. 1, par. 1. The restriction in paragraph 3 of the ethics pledge establishes the same restriction “with respect to” any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration. *See id.*; E.O. 13770 sec. 1, par. 3; sec. 2(c).

Executive Order 13770 relies partly on the definition of “lobbying activities” in the Lobbying Disclosure Act (LDA). *See* E.O. 13770, sec. 2(n). The LDA defines that term to include both “lobbying contacts” and behind-the-scenes efforts in support of such contacts. 2 U.S.C. § 1602(7). The LDA’s definition of “lobbying contacts” is limited to certain types of communications and excludes 19 types of communications. 2 U.S.C. § 1602(8). Executive Order 13770 specifically excludes additional types of communications. *See* E.O. 13770, sec. 2(n).

For purposes of paragraph 1, lobbying activities are deemed to be carried out “with respect to” an agency only to the extent that they involve the following:

- (a) Any oral or written communication to a covered executive branch official of that agency; or

(b) Efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official of that agency.

For purposes of paragraph 3, the prohibition on lobbying activities “with respect to” a covered executive branch official or non-career Senior Executive Service appointee extends to non-career Senior Executive Service appointees. Therefore, lobbying activities in paragraph 3 involve the following:

(a) Any oral or written communication to a covered executive branch official or non-career Senior Executive Service appointee;
or

(b) Efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official or non-career Senior Executive Service appointee of that agency.

For the convenience of ethics officials and employees, an enclosed table compares the post-Government employment lobbying restrictions in paragraphs 1 and 3.

Attachments

Applicability of Prior Guidance to Executive Order 13770

Attachment to LA-17-03

E.O. 13770 Provision	Language Common to Both	Prior Guidance Applicable to Executive Order 13770
<p>Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:</p> <p>As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:</p>	<p>Signing requirement ("appointee"): E.O. 13770, sec. 1 E.O. 13490, sec. 1</p> <p>Definition of appointee: E.O. 13770, sec. 2(b) E.O. 13490, sec. 2(b)</p>	<p>Whether the following categories of employees are considered "appointees" for the purpose of signing the ethics pledge:</p> <ul style="list-style-type: none"> • Acting officials and detailees: DO-09-010 • Appointees, generally: DO-09-003, DO-09-010 • Career officials appointed to confidential positions: DO-09-010 • Career Senior Executive Service (SES) members given Presidential appointments: DO-09-010 • Excepted service, generally: DO-09-010 • Foreign Service, similar positions: DO-09-010 • Holdover appointees: DO-09-010 • Individuals appointed to career positions: DO-09-003 • IPA detailees: DO-09-020 • Schedule C employees with no policymaking role: DO-09-010 • Special Government Employees (SGEs): DO-09-005, DO-09-010 • Temporary advisors/counselors pending confirmation to Presidentially appointed, Senate-confirmed (PAS) positions: DO-09-005 • Term appointees: DO-09-010
	<p>Signing requirement ("shall sign"): E.O. 13770, sec. 1 E.O. 13490, sec. 1</p>	<p>When the ethics pledge must be signed:</p> <ul style="list-style-type: none"> • Holdover appointees: DO-09-010, DO-09-014 • Nominees to PAS positions: DO-09-005 • Non-PAS who have already been appointed: DO-09-005 • Non-PAS who may be appointed in the future: DO-09-005 • Temporary advisors/counselors pending Senate confirmation to PAS positions: DO-09-005
<p><u>Sec. 1, par. 2:</u> If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.</p>	<p>Restriction on communicating with employees of former agency: E.O. 13770, sec. 1, par. 2 E.O. 13490, sec. 1, par. 4</p>	<p>Guidance on the restriction: DO-10-004, LA-16-08</p> <p><i>Note: Ethics officials and employees may continue to rely on DO-10-004 regarding the substance of the restriction. Note, however, that the duration of this restriction in E.O. 13770 is one year and commences when the individual ceases to be a senior employee, whereas the duration of the corresponding restriction in E.O.13490 was two years, commencing when the appointee moves to a position that is not subject to the Pledge.</i></p>
<p><u>Sec. 1, par. 5:</u> I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.</p>	<p>Prohibition on accepting gifts from registered lobbyists, lobbying orgs: E.O. 13770, sec. 1, par. 5 E.O. 13490, sec. 1, par. 1</p>	<p>Guidance on the lobbyist gift ban: DO-09-007, DO-10-003, LA-12-10</p> <p>Relationship to 5 C.F.R. 2635, subpart B (Gifts from Outside Sources): DO-09-007, DO-10-003</p>
	<p>Definition of "gift": E.O. 13770, sec. 2(k) E.O. 13490, sec. 2(c)</p>	<p>Guidance on the following terms:</p> <ul style="list-style-type: none"> • "Gift": DO-09-007 • "Solicited or accepted indirectly:" DO-09-007 <p>Treatment of official speeches, accompanying staff: DO-10-003</p>
	<p>Definition of "registered lobbyist or lobbying organization": E.O. 13770, sec. 2(w) E.O. 13490, sec. 2(e)</p>	<p>Guidance on the term, "registered lobbyist or lobbying organization": DO-09-007</p> <p>Treatment of the following:</p> <ul style="list-style-type: none"> • 501(c)(3) organizations: DO-09-007, LA-12-10 • Clients of lobbyists/lobbying firms: DO-09-007 • Institutions of higher education: LA-12-10 • Media organizations: DO-09-007, LA-12-10

E.O. 13770 Provision	Language Common to Both	Prior Guidance Applicable to Executive Order 13770
<p><u>Sec. 1, par. 6:</u> I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.</p>	<p>Revolving door ban (incoming appointees): E.O. 13770, sec. 1, par. 6 E.O. 13490, sec. 1, par. 2</p>	<p>Guidance on the revolving door ban (incoming appointees): DO-09-011, DO-09-020</p> <p>Relationship to impartiality regulations: DO-09-011</p>
	<p>Definition of “directly and substantially related to my former employer or former clients”: E.O. 13770, sec. 2(d) E.O. 13490, sec. 2(k)</p>	<p>Guidance on the term, “directly and substantially related to”: DO-09-011</p>
	<p>Definition of “former client”: E.O. 13770, sec. 2(i) E.O. 13490, sec. 2(j)</p>	<p>Guidance on the term, “former client”: DO-09-011</p> <p>Treatment of the following:</p> <ul style="list-style-type: none"> • Discrete, short-term engagements/<i>de minimis</i>: DO-09-011 • Federally funded research and development centers: DO-09-011 • Government entities: DO-09-011 • Nonprofit organizations: DO-09-011 • Service as a consultant: DO-09-011 • State or local colleges and universities: DO-09-011
	<p>Definition of “former employer”: E.O. 13770, sec. 2(j) E.O. 13490, sec. 2(i)</p>	<p>Guidance on the term, “former employer”: DO-09-011</p> <p>Treatment of the following:</p> <ul style="list-style-type: none"> • Federally funded research and development centers: DO-09-011 • Government entities: DO-09-011 • State or local colleges and universities: DO-09-011 • Nonprofit organizations: DO-09-011
	<p>Definition of “particular matter involving specific parties”: E.O. 13770, sec. 2(s) E.O. 13490, sec. 2(h)</p>	<p>Guidance on the term, “particular matter involving specific parties”: DO-09-011, DO-09-020</p> <p>Treatment of the following:</p> <ul style="list-style-type: none"> • Consultation with experts: DO-09-011 • Meetings, other communications: DO-09-011 • Official speeches: DO-09-020 • Open to all interested parties/multiplicity of parties: DO-09-011 • Rulemakings/regulations: DO-09-011

Paragraphs 1 and 3 in Executive Order 13770
Attachment to LA-17-03

	Paragraph 1	Paragraph 3
Basic Prohibition	I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency. E.O. 13770, sec. 1, par. 1.	In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration. E.O. 13770, sec. 1, par. 3.
Length of Restriction	5 years. E.O. 13770, sec. 1, par. 1.	Remainder of the Administration. E.O. 13770, sec. 1, par. 3
Commencement of Restriction	Termination of employment as an appointee. E.O. 13770, sec. 1, par. 1.	Termination of government service. E.O. 13770, sec. 1, par. 3
Restricted Activity	<p>Lobbying activities, as defined in the Lobbying Disclosure Act, but excluding certain types of communications. E.O. 13770, sec. 2(n). The term “lobbying activities” includes “lobbying contacts” and behind-the-scenes efforts in support of such contacts. 2 U.S.C. § 1602(7).</p> <ul style="list-style-type: none"> • “Lobbying contacts” are limited to written or oral communications with covered officials that are made on behalf of a client. 2 U.S.C. § 1602(8)(A). <ul style="list-style-type: none"> ○ The term “lobbying activities” as defined in E.O. 13770 does not include communications and appearances with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 et seq. ○ The definition of “lobbying contact” includes 19 exceptions listed at 2 U.S.C. § 1602(8)(B). 2 U.S.C. § 1602(8)(B)(i)-(xix) <ul style="list-style-type: none"> ▪ For example, the definition excludes “a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official.” 2 U.S.C. § 1602(8)(B)(v). • The term “client” means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. 2 U.S.C. § 1602(2). • An activity is considered a “lobbying activity” whether or not a former appointee is required to register as a lobbyist. Therefore, there is no minimum requirement to engage in lobbying activities before the restrictions apply (<i>i.e.</i>, no 20% service threshold). <i>See</i> E.O. 13770, sec. 2(n). 	
With Whom Appointees are Restricted From Engaging in Lobbying Activities	<p>Covered executive branch officials <u>at the former appointee’s former agency</u>. E.O. 13770, sec. 1, par. 1 (“with respect to that agency”).</p> <ul style="list-style-type: none"> • A communication to or appearance solely before a covered legislative branch official is not a lobbying activity “with respect to” the former appointee’s former agency. <i>Id.</i> • With respect to those appointees to whom component designations are applicable, “agency” means the separate and distinct component agencies designated in accordance with 18 U.S.C. § 207(h). E.O. 13770, sec. 2(e). 	<p>Covered executive branch officials <u>throughout the executive branch</u>. E.O. 13770, sec. 1, par. 3.</p> <p>Non-career senior executive service appointees <u>throughout the executive branch</u>. E.O. 13770, sec. 1, par. 3.</p>
	<p>Covered executive branch officials are:</p> <ul style="list-style-type: none"> • The President; • The Vice President; • Any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President; • Any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order; • Any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37; and • Any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2)(B) of title 5. <i>See</i> E.O. 13770, sec. 2(c); 2 U.S.C. § 1602(3). 	



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/11/2018 12:20:21 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: Recusal List

I was looking for this, but could you provide the site list as well?

From: Fugh, Justina
Sent: Tuesday, July 10, 2018 8:00 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Recusal List

Hi,
Did you want his recusal statement? If so, see attached. Or did you want the latest list of Superfund sites generated by OECA at which one of his former clients may be a party? If the latter, I have to look for that.
Justina

From: Leopold, Matt (OGC)
Sent: Tuesday, July 10, 2018 7:30 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Recusal List

Can you please provide the Acting Administrator's recusal list? Thanks

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

Message

From: Abboud, Michael [abboud.michael@epa.gov]
Sent: 7/10/2018 5:03:07 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Beach, Christopher [beach.christopher@epa.gov]; Block, Molly [block.molly@epa.gov]; Daniell, Kelsi [daniell.kelsi@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Konkus, John [konkus.john@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]
Subject: RE: NYT request

Ok let me try to refine this into a smaller quote. Is this accurate below?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

DRAFT: **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Tuesday, July 10, 2018 12:49 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Cc: Beach, Christopher <beach.christopher@epa.gov>; Block, Molly <block.molly@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: RE: NYT request

Hi there,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Abboud, Michael
Sent: Tuesday, July 10, 2018 11:23 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Beach, Christopher <beach.christopher@epa.gov>; Block, Molly <block.molly@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>

Subject: FW: NYT request

Justina-

Ryan suggested you would be able to help us with a response here. We've sent her the letter, but she seems to want us to predict the future. Is there anything more we can say to her?

From: Lisa Friedman [<mailto:lisa.friedman@nytimes.com>]

Sent: Tuesday, July 10, 2018 10:52 AM

To: Abboud, Michael <abboud.michael@epa.gov>

Cc: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>

Subject: Re: NYT request

Hey. Yes I realize it suggests he doesn't have any right now but I wanted to make sure I'm accurate.

Ok so to clarify he will seek waivers if issues come up that pose a conflict - but he has not done so yet? The Clean Power Plan - for example - he hasn't needed a waiver to work on that? Or has he not been working on it?

Thanks again

Lisa

On Tue, Jul 10, 2018 at 10:47 AM Abboud, Michael <abboud.michael@epa.gov> wrote:

This is addressed in the letter, on the first page.

From: Friedman, Lisa [<mailto:lisa.friedman@nytimes.com>]

Sent: Tuesday, July 10, 2018 9:34 AM

To: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>

Subject: NYT request

Hi John,

Apologies if this is a repeat of something you've answered for other outlets and I haven't seen -- but can you please provide me with any ethics waivers in resolving financial conflicts of interest that Mr. Wheeler has. And, if he has no ethics waivers, can you explain to me why not.

Thanks very much,

Lisa

--

Lisa Friedman

Reporter, New York Times

(202) 862-0306 office

Personal Phone / Ex. 6 cell

--

Lisa Friedman

Reporter, New York Times

(202) 862-0306 office

Personal Phone / Ex. 6 cell

Message

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 7/6/2018 7:22:34 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Beach, Christopher [beach.christopher@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Konkus, John [konkus.john@epa.gov]
Subject: Re: Wheeler Recusal Questions

Deliberative Process / Ex. 5

Ryan Jackson

Chief of Staff

U.S. EPA

Personal Phone / Ex. 6

On Jul 6, 2018, at 3:11 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Chris,

Please see my suggested responses below:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beach, Christopher

Sent: Friday, July 06, 2018 2:38 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>

Subject: Wheeler Recusal Questions

Justina, here are the two issues/questions that Ryan mentioned for your review and thoughts. Thanks!

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

<DA Signed Recusal Statement .pdf>

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/11/2018 4:15:23 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Request for background conversation Wednesday or Thursday

Great. Let me run the traps and I'll be in touch. Thank you Justina.

From: Fugh, Justina
Sent: Wednesday, July 11, 2018 12:13 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: Request for background conversation Wednesday or Thursday

Done. **Deliberative Process / Ex. 5**

From: Konkus, John
Sent: Wednesday, July 11, 2018 12:02 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for background conversation Wednesday or Thursday

Deliberative Process / Ex. 5

Thank you.

From: Fugh, Justina
Sent: Wednesday, July 11, 2018 12:00 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: Request for background conversation Wednesday or Thursday

Hi John,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I am in the office on Wednesday and

Thursday. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Konkus, John
Sent: Wednesday, July 11, 2018 11:55 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Request for background conversation Wednesday or Thursday

Justina:

Deliberative Process / Ex. 5

From: Eric Lipton [mailto:lipton@nytimes.com]

Sent: Wednesday, July 11, 2018 11:49 AM

To: Konkus, John <konkus.john@epa.gov>; Lisa Friedman <lisa.friedman@nytimes.com>

Subject: Request for background conversation Wednesday or Thursday

Hello John

Lisa Friedman and I have been looking at Andrew Wheeler's recusal letter and his lobbying registration forms, and the 2017 letter from the Office of Government Ethics that defines what the recusal requirements are for former registered lobbyists. Both attached below.

It would be extremely helpful if we could speak on background with Justina Fugh in OGC ethics program so we make sure we understand how the EPA is interpreting these rules and what the language in the recusal letter really means. **Even if this is an off the record conversation, it would be very helpful and important.**

This is something we are considering writing a piece about this week. But more broadly, it is something that we need to accurately and fully understand moving forward.

For example, the rescual letter for Mr. Wheeler lists only Energy Star as an issue that he handled related to EPA. Obviously, he had a number of clients that had a much broader range of issues before the agency. But perhaps this recusal letter is essentially staying that Mr. Wheeler did not work on any of these EPA related issues, before the Congress or any other entity, in the prior two years. As my reading of the OGE March 2017 issue suggests to me that if he handle any matters before any government agency that is an EPA related matter--even if he did not contact the EPA--he would have to recuse himself on the "particular matter of general applicability," as explained below.

This is complicated, nuanced, but VERY important stuff. We really do think that the EPA would be best served by talking this through with us in a very detailed way. And it seems like Justina is the best person, as she understand the law and this particular case.

The end goal is to have a situation where when you read our stories you think that we are accurately interpreting what the recusal letter means.

Can we have this conversation sometime today (WEDNESDAY) or Thursday?

Thanks in advance

Eric and Lisa

Here are some paragraphs from a March 2017 OGE memo

II. Paragraph 7: "Specific Issue Area"

Executive Order 13770 prohibits an appointee from participating in any particular matter on which the appointee lobbied during the two-year period before being appointed or in the "specific issue area" in which that particular matter falls. *See* E.O. 13770, sec. 1, par. 7; E.O. 13490, sec. 1, par. 3. **The Counsel to the President's office has advised OGE that, as used in Executive Order 13770, the term "specific issue area" means a "particular matter of general applicability," and OGE has accepted the Administration's interpretation of this term.** Although "specific issue" and "general issue area" are used in the context of the Lobbying Disclosure Act (LDA), the term "specific issue area" is not used in that context. *See* E.O. 13770, sec. 2; *see also* 2

2 U.S.C. §§ 1602, 1603(b)(5), 1604(b)(2). Although the term "specific issue area" appeared in Executive Order 13490, it was not defined in any guidance issued during the eight years in which that executive order remained in effect.

OGE has issued guidance distinguishing two types of particular matters: "particular matters involving specific parties" and "particular matters of general applicability." *See* 5 C.F.R. § 2640.102(l)-(m); *see also* OGE Inf. Adv. Op. 06 x 9 (2006). The latter is broader than the former. *Id.* **This difference in breadth is relevant in determining the scope of the recusal, as illustrated in the following example:**

An appointee was a registered lobbyist during the two-year period before she entered government. In that capacity, she lobbied her agency against a proposed regulation focused on a specific industry. Her lobbying was limited to a specific section of the regulation affecting her client. Her recusal obligation as an appointee is not limited to the

section of the regulation on which she lobbied, nor is it limited to the application of the regulation to her former client. Instead, she must recuse for two years from development and implementation of the entire regulation, subsequent interpretation of the regulation, and application of the regulation in individual cases.

Eric Lipton

The New York Times

Washington Bureau

202.862.0448 office

Personal Phone / Ex. 6 mobile

lipton@nytimes.com

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 7/13/2018 8:03:37 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: on a different note ...

Deliberative Process / Ex. 5

MM

From: Fugh, Justina
Sent: Thursday, July 12, 2018 5:53 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: on a different note ...

Hi,

Deliberative Process / Ex. 5

Copying Shannon Griffo of Team Ethics so that she knows we don't have to worry about this one anymore.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Thursday, July 12, 2018 4:44 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: on a different note ...

Deliberative Process / Ex. 5

MM

From: Fugh, Justina
Sent: Thursday, July 12, 2018 2:46 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: on a different note ...

Hi,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Any feeling about that from your perspective?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Kunderling, Kelly [kunderling.kelly@epa.gov]
Sent: 7/13/2018 7:24:17 PM
To: Davis, Gail [Davis.Gail@epa.gov]
CC: Keith, Jennie [Keith.Jennie@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]; McMurray, Forrest [mcmurray.forrest@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Wooden-Aguilar, Helena [Wooden-Aguilar.Helena@epa.gov]; Jenkins, Juanita [jenkins.juanita@epa.gov]
Subject: Re: Lunch in PA on Monday

Thank you, Jennie. I appreciate the quick turn around.

Have a wonderful weekend!

Sent from my iPhone

On Jul 13, 2018, at 3:18 PM, Davis, Gail <Davis.Gail@epa.gov> wrote:

As always thank you Jennie for including me! Have a great weekend!

From: Keith, Jennie
Sent: Friday, July 13, 2018 3:00 PM
To: Kunderling, Kelly <kunderling.kelly@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Davis, Gail <Davis.Gail@epa.gov>
Subject: RE: Lunch in PA on Monday

Hi Kelly,

The Acting Administrator may accept this box lunch. It is not considered a gift because this is a substantive speaking engagement for the Acting Administrator. I'm cc'ing Gail Davis since he'll be in travel status.

As for the staff accompanying him, those employees may accept the lunch (and it won't be considered a gift) BECAUSE THE FOLLOWING IS MET: Their inclusion at the event is deemed ESSENTIAL to the Acting Administrator's presence at the event. Based off of a separate email, I would consider Tate Bennett's presence to be essential since she is planning and executing the event; James Hewitt since he from OPA and press will be present. They may eat the lunch and it will not be considered a gift. They may not voucher for per diem if they eat the lunch.

We will permit Mr. Molina to accept the gift of the boxed lunch because it is valued at less than \$20. He also may not voucher for per diem if he eats the lunch.

Does this help?
Jennie for OGC/Ethics

From: Kunderling, Kelly
Sent: Friday, July 13, 2018 11:11 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Re: Lunch in PA on Monday

Jennie -

Thank you for your quick reply.

The Washington, PA Chamber of Commerce will be hosting the round table event. A/A Wheeler will be speaking to about 15 - 20 attendees about his plans as Acting Administrator and about local environmental issues. He will also accept questions from attendees.

The lunch is being provided to all attendees. The Chamber has not given attendees the opportunity to cover the cost of their lunch.

Please let me know if you have any further questions.

Thanks,

Kelly

On Jul 13, 2018, at 10:55 AM, Keith, Jennie <Keith.Jennie@epa.gov> wrote:

Kelly, Would you please provide more information about the Roundtable? Who is hosting? Who is attending and how many? Is there an agenda that outlines the expectations (e.g., speaking role) of the Acting Administrator?

Is there a mechanism for paying for the boxed lunch? That is, participants who want a lunch can pay for it? Or is it simply being provided to all in attendance complimentary of the hosts?

Thanks!
Jennie for OGC/Ethics

From: Kundinger, Kelly
Sent: Friday, July 13, 2018 10:52 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: McMurray, Forrest <mcmurray.forrest@epa.gov>
Subject: Lunch in PA on Monday

Jennie & Justina -

Acting Administrator Wheeler has several events that he is attending in Pennsylvania on Monday. Lunch is going to be provided during a round table discussion that he is partaking in that afternoon. The cost per person for the boxed lunch is \$11.00.

Does he have permission to accept this lunch since he will be speaking during this event? Would you also mind advising whether or not staff that is accompanying him to the event is permitted to accept the lunch?

Thank you for your assistance.

Kelly

Message

From: Abboud, Michael [abboud.michael@epa.gov]
Sent: 7/10/2018 3:23:05 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Beach, Christopher [beach.christopher@epa.gov]; Block, Molly [block.molly@epa.gov]; Daniell, Kelsi [daniell.kelsi@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Konkus, John [konkus.john@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]
Subject: FW: NYT request
Attachments: DA Signed Recusal Statement .pdf

Justina-

Ryan suggested you would be able to help us with a response here. We've sent here the letter, but she seems to want us to predict the future. Is there anything more we can say to her?

From: Lisa Friedman [mailto:lisa.friedman@nytimes.com]
Sent: Tuesday, July 10, 2018 10:52 AM
To: Abboud, Michael <abboud.michael@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>
Subject: Re: NYT request

Hey. Yes I realize it suggests he doesn't have any right now but I wanted to make sure I'm accurate.

Ok so to clarify he will seek waivers if issues come up that pose a conflict - but he has not done so yet? The Clean Power Plan - for example - he hasn't needed a waiver to work on that? Or has he not been working on it?

Thanks again
Lisa

On Tue, Jul 10, 2018 at 10:47 AM Abboud, Michael <abboud.michael@epa.gov> wrote:

This is addressed in the letter, on the first page.

From: Friedman, Lisa [mailto:lisa.friedman@nytimes.com]
Sent: Tuesday, July 10, 2018 9:34 AM
To: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>
Subject: NYT request

Hi John,

Apologies if this is a repeat of something you've answered for other outlets and I haven't seen -- but can you please provide me with any ethics waivers in resolving financial conflicts of interest that Mr. Wheeler has. And, if he has no ethics waivers, can you explain to me why not.

Thanks very much,

Lisa

--

Lisa Friedman

Reporter, New York Times

(202) 862-0306 office

Personal Phone / Ex. 6 cell

--

Lisa Friedman

Reporter, New York Times

(202) 862-0306 office

Personal Phone / Ex. 6 cell



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Vanroden, Victoria [Vanroden.Victoria@epa.gov]
Sent: 6/25/2018 7:53:47 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Gardner, Monica [Gardner.Monica@epa.gov]; Healy, Helena [Healy.Helena@epa.gov]
Subject: RE: request from the Deputy Administrator

We will shoot for the Thurs. this week, if not sooner.

Victoria L. van Roden
OECA/OSRE/PPED/PECB
202-564-4253

Ex. 6 - Personal Privacy

 (cell)

From: Fugh, Justina
Sent: Monday, June 25, 2018 3:32 PM
To: Vanroden, Victoria <Vanroden.Victoria@epa.gov>
Cc: Gardner, Monica <Gardner.Monica@epa.gov>; Healy, Helena <Healy.Helena@epa.gov>
Subject: RE: request from the Deputy Administrator

Maybe a week?

From: Vanroden, Victoria
Sent: Monday, June 25, 2018 3:24 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Gardner, Monica <Gardner.Monica@epa.gov>; Healy, Helena <Healy.Helena@epa.gov>
Subject: RE: request from the Deputy Administrator

Justina – we can look into your request. Do you have a deadline of when this is needed. Thanks

Victoria L. van Roden
OECA/OSRE/PPED/PECB
202-564-4253

Ex. 6 - Personal Privacy

 (cell)

From: Fugh, Justina
Sent: Monday, June 25, 2018 3:16 PM
To: Vanroden, Victoria <Vanroden.Victoria@epa.gov>
Subject: request from the Deputy Administrator

Hi Victoria,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks in advance for your thoughts!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

FORMER CLIENTS: Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	 Growth Energy International Paper Martin Farms Xcel Energy
-------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------

Message

From: Vanroden, Victoria [Vanroden.Victoria@epa.gov]
Sent: 6/27/2018 7:48:52 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Gardner, Monica [Gardner.Monica@epa.gov]; Healy, Helena [Healy.Helena@epa.gov]; Bell, Mary [Bell.Mary@epa.gov]
Subject: Fwd: request from the Deputy Administrator
Attachments: Sites for selected parties International Paper et al - Final_06-27-2018.xlsx; ATT00001.htm

Justina - per your request, please see attached.

Special thanks to Mary Bell for addressing so quickly.

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: June 25, 2018 at 2:54:07 PM CDT
To: "Vanroden, Victoria" <Vanroden.Victoria@epa.gov>
Cc: "Gardner, Monica" <Gardner.Monica@epa.gov>, "Healy, Helena" <Healy.Helena@epa.gov>
Subject: RE: request from the Deputy Administrator

You're the best!

From: Vanroden, Victoria
Sent: Monday, June 25, 2018 3:54 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Gardner, Monica <Gardner.Monica@epa.gov>; Healy, Helena <Healy.Helena@epa.gov>
Subject: RE: request from the Deputy Administrator

We will shoot for the Thurs. this week, if not sooner.

Victoria L. van Roden

OECA/OSRE/PPED/PECB

202-564-4253

Ex. 6 - Personal Privacy (cell)

From: Fugh, Justina
Sent: Monday, June 25, 2018 3:32 PM
To: Vanroden, Victoria <Vanroden.Victoria@epa.gov>
Cc: Gardner, Monica <Gardner.Monica@epa.gov>; Healy, Helena <Healy.Helena@epa.gov>
Subject: RE: request from the Deputy Administrator

Maybe a week?

From: Vanroden, Victoria
Sent: Monday, June 25, 2018 3:24 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Gardner, Monica <Gardner.Monica@epa.gov>; Healy, Helena <Healy.Helena@epa.gov>
Subject: RE: request from the Deputy Administrator

Justina – we can look into your request. Do you have a deadline of when this is needed. Thanks

Victoria L. van Roden

OECA/OSRE/PPED/PECB

202-564-4253

Ex. 6 - Personal Privacy (cell)

From: Fugh, Justina
Sent: Monday, June 25, 2018 3:16 PM
To: Vanroden, Victoria <Vanroden.Victoria@epa.gov>
Subject: request from the Deputy Administrator

Hi Victoria,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks in

advance for your thoughts!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code
2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC
20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-
564-1772

<image001.png>

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 6/28/2018 11:56:31 AM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Vanroden, Victoria [Vanroden.Victoria@epa.gov]
Subject: RE: heads up

Wow – thank you for the quick turnaround.

Michael

From: Fugh, Justina
Sent: Wednesday, June 27, 2018 7:18 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Vanroden, Victoria <Vanroden.Victoria@epa.gov>
Subject: heads up

Hi Michael,

Deliberative Process / Ex. 5

Victoria and Mary --

Thank you so much for your help! Michael is the senior advisor to the Deputy Administrator, just to give you some context.

Cheers to all,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 8/1/2018 8:11:55 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Request for comment on Wheeler and lobbying

Here's what Abboud and I came up with. We'll send it before his 5pm deadline:

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Wednesday, August 1, 2018 2:28 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Ryan Jackson
Chief of Staff
U.S. EPA

Personal Phone / Ex. 6

On Aug 1, 2018, at 2:25 PM, Konkus, John <konkus.john@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Wednesday, August 1, 2018 1:50 PM
To: Konkus, John <konkus.john@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Wednesday, August 1, 2018 1:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Request for comment on Wheeler and lobbying

Justina,

Deliberative Process / Ex. 5 Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thoughts?

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, August 1, 2018 1:21 PM
To: Press <Press@epa.gov>
Subject: Request for comment on Wheeler and lobbying

Hi,

We're planning to run a story tomorrow morning that takes a closer look at the lobbying Administrator Wheeler did before coming to EPA and how little the Trump administration knows or is concerned about it.

It focuses mainly on the clients and work that Wheeler didn't discuss with NYT today. Specifically, it highlights the work he did for Celanese and other companies interested in the RFS, none of which is covered by his recusal agreement. Also mentioned are ICOR International, which is interested in EPA regulations on hydrofluorocarbon alternatives, and other clients he worked for on unknown issues. Meredith McGehee, the head of IssueOne, is quoted as saying the fact that Wheeler's recusal statement doesn't include more clients or issues he worked on shows the Trump administration isn't interested in eliminating conflicts of interest.

As I understood it from my conversation with career EPA ethics officials on Monday, they don't review work he did for clients that falls outside the two-year recusal window and Administrator Wheeler is the one who determined which clients were included in that window. Is that correct? If so, what assurance should the public have that the ethics office won't be forced to offer new opinions on Administrator Wheeler's lobbying past as new information occurs, as happened with former Administrator Pruitt's condo lease agreement?

If my understanding of the vetting process is wrong, then please elaborate on how ethics officials reviewed his work for ADM, Darling, Celanese and others. What additional documentation was produced in those discussions? Can you provide me with those documents?

Please get back to me with any comments or additional information by 5 p.m.

Thanks, C

Corbin Hiar
E&E News Reporter
O: 202 446 0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 8/1/2018 6:42:31 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Wednesday, August 1, 2018 2:28 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Ryan Jackson
Chief of Staff
U.S. EPA

Personal Phone / Ex. 6

On Aug 1, 2018, at 2:25 PM, Konkus, John <konkus.john@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Wednesday, August 1, 2018 1:50 PM
To: Konkus, John <konkus.john@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Wednesday, August 1, 2018 1:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Request for comment on Wheeler and lobbying

Justina: **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thoughts?

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, August 1, 2018 1:21 PM
To: Press <Press@epa.gov>
Subject: Request for comment on Wheeler and lobbying

Hi,

We're planning to run a story tomorrow morning that takes a closer look at the lobbying Administrator Wheeler did before coming to EPA and how little the Trump administration knows or is concerned about it.

It focuses mainly on the clients and work that Wheeler didn't discuss with NYT today. Specifically, it highlights the work he did for Celanese and other companies interested in the RFS, none of which is covered by his recusal agreement. Also mentioned are ICOR International, which is interested in EPA regulations on hydrofluorocarbon alternatives, and other clients he worked for on unknown issues. Meredith McGehee, the head of IssueOne, is quoted as saying the fact that Wheeler's recusal statement doesn't include more clients or issues he worked on shows the Trump administration isn't interested in eliminating conflicts of interest.

As I understood it from my conversation with career EPA ethics officials on Monday, they don't review work he did for clients that falls outside the two-year recusal window and Administrator Wheeler is the one who determined which clients were included in that window. Is that correct? If so, what assurance should the public have that the ethics office won't be forced to offer new opinions on Administrator Wheeler's lobbying past as new information occurs, as happened with former Administrator Pruitt's condo lease agreement?

If my understanding of the vetting process is wrong, then please elaborate on how ethics officials reviewed his work for ADM, Darling, Celanese and others. What additional documentation was produced in those discussions? Can you provided me with those documents?

Please get back to me with any comments or additional information by 5 p.m.

Thanks, C

Corbin Hiar
E&E News Reporter
O: 202 446 0438
M: **Personal Phone / Ex. 6**

T: [@corbinhiar](https://twitter.com/corbinhiar)

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 8/1/2018 5:52:33 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Request for comment on Wheeler and lobbying

Sounds good. I'll type up a draft. Please stand by.

From: Jackson, Ryan
Sent: Wednesday, August 1, 2018 1:50 PM
To: Konkus, John <konkus.john@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Wednesday, August 1, 2018 1:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Request for comment on Wheeler and lobbying

Justina:

Deliberative Process / Ex. 5	Thoughts?
-------------------------------------	-----------

From: Corbin Hiar [mailto:chiar@eenews.net]
Sent: Wednesday, August 1, 2018 1:21 PM
To: Press <Press@epa.gov>
Subject: Request for comment on Wheeler and lobbying

Hi,

We're planning to run a story tomorrow morning that takes a closer look at the lobbying Administrator Wheeler did before coming to EPA and how little the Trump administration knows or is concerned about it.

It focuses mainly on the clients and work that Wheeler didn't discuss with NYT today. Specifically, it highlights the work he did for Celanese and other companies interested in the RFS, none of which is covered by his recusal agreement. Also mentioned are ICOR International, which is interested in EPA regulations on hydrofluorocarbon alternatives, and other clients he worked for on unknown issues. Meredith McGehee, the head of IssueOne, is quoted as saying the fact that Wheeler's recusal statement doesn't include more clients or issues he worked on shows the Trump administration isn't interested in eliminating conflicts of interest.

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If my understanding of the vetting process is wrong, then please elaborate on how ethics officials reviewed his work for ADM, Darling, Celanese and others. What additional documentation was produced in those discussions? Can you provided me with those documents?

Please get back to me with any comments or additional information by 5 p.m.

Thanks, C

Corbin Hiar

E&E News Reporter

O: 202 446 0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Keith, Jennie [Keith.Jennie@epa.gov]
Sent: 5/31/2018 1:42:41 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Invitation to NERO Annual Dinner

Justina,

Deliberative Process / Ex. 5

Thanks!
Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, May 30, 2018 5:06 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Andrew Wheeler (the Deputy Administrator) was formerly affiliated with NERO, but he held a non fiduciary position with them so it's not impacted by the Trump pledge.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Wheeler, Andrew
Sent: Wednesday, May 30, 2018 3:42 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: FW: Invitation to NERO Annual Dinner

Justina, I would like to attend this dinner. I have been invited as a guest of NERO. Ideally I would like to attend without paying the government rate since they are a non-profit and have invited me. If that's not possible I'll buy a ticket. Thanks.

From: Executive Director [<mailto:ExecutiveDirector@nationalenergyresources.com>]

Sent: Wednesday, May 30, 2018 12:28 PM

To: Wheeler, Andrew <wheeler.andrew@epa.gov>

Cc: Executive Director <ExecutiveDirector@nationalenergyresources.com>; Carole Goeas <Carole@goeasassociates.com>

Subject: Invitation to NERO Annual Dinner

Hi Andy,

I hope all is well! Attached, and below, is the invitation to the annual dinner. The Government rate for an individual ticket is \$75. I have also attached an informational page addressing the ethics questions we typically receive for our events. Happy to address any other questions they may have. Also, can we add you/your EPA email address to our distribution list so that you receive all invites?

Jo Ann Pawela

Administrative Support For Carole Goeas, Executive Director
National Energy Resources Organization (NERO)

ANNUAL AWARDS DINNER

NERO

IS PLEASED TO PRESENT THE
2018

Distinguished Service Awards to

Majority Whip, Rep.

U.S. Senator

STEVE SCALISE and HEIDI HEITKAMP

American Energy

[illegible]

THURSDAY

JUNE

21

2018

COCKTAILS 5:30

DINNER 7:00

CAPITOL HILL HYATT REGENCY

400 NEW JERSEY AVE, NW

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

FOR ADDITIONAL INFORMATION:

ExecutiveDirector@NationalEnergyResources.com

or (703) 548-1764

THIS INVITATION IS NOT TRANSFERABLE

Message

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 5/18/2018 2:52:42 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: Ethics Agreement

Andrew- Justina and I just discussed the plan to get you the draft yesterday, in fact, and so we expect to be able to have a draft to you today.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 18, 2018, at 8:15 AM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Can I get the next draft of my ethics agreement back? I want to finalize it and give it to my assistants.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thank you.

Andrew R. Wheeler
Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-4711

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/31/2018 8:18:56 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: revised recusal statement for Wheeler

Can we have a redline from the prior version? Thanks

Sent from my iPhone

On Jul 31, 2018, at 2:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

Deliberative Process / Ex. 5

Ryan – I sent this to Sharnett to print out for you.
Justina

<Wheeler draft updated recusal statement 7_31_18.docx>

Message

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 7/31/2018 8:06:10 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Re: revised recusal statement for Wheeler

Can you send me a redline?

Ryan Jackson
Chief of Staff
U.S. EPA

Personal Phone / Ex. 6

On Jul 31, 2018, at 2:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

Deliberative Process / Ex. 5

Ryan – I sent this to Sharnett to print out for you.
Justina

<Wheeler draft updated recusal statement 7_31_18.docx>

Message

From: Wheeler, Andrew [wheeler.andrew@epa.gov]
Sent: 5/31/2018 10:17:08 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: while I have you ...

Could you please, I'm sorry I didn't realize you needed that back from me.

Sent from my iPhone

On May 31, 2018, at 5:51 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Did you receive the ethics agreement compliance and cheat sheet that I sent you? I sent it to you together with the recusal, but got just the signed recusal back. Shall I send you that document again?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Wheeler, Andrew [wheeler.andrew@epa.gov]
Sent: 5/31/2018 9:42:40 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: Invitation to NERO Annual Dinner

Thank you and I appreciate your prompt response.

Sent from my iPhone

On May 31, 2018, at 5:36 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,
OGC/Ethics understands that you have received an invitation from the National Energy Resources Organization (NERO). You have been invited to attend as their guest at their annual awards dinner to be held this year on June 21, 2018, at the Capitol Hill Hyatt Regency Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump Ethics Pledge. NERO is not a federally registered lobbyist, so this invitation does not trigger any concerns under the lobbying gift ban.

The gift offered is an evening reception and dinner sponsored by NERO. I have confirmed that the organization is offering you a complimentary ticket, so we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you either because of your official position or because you were formerly associated with NERO. Irrespective of the reason for your invitation, OGC/Ethics concludes that you may attend.

In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance. If you do attend, then you will need not report this gift on your next financial disclosure report because we are evaluating your gift at the government rate (\$75), which is BELOW the reporting threshold (currently \$390). We note that there is a marked price differential between the government rate and the member/non-member rates (members pay \$450, while non-members pay \$900). Because you are a government employee, you qualify for the government rate, so that is the price point we are using to evaluate your ticket.

I appreciate that you were recently affiliated with NERO as a non-fiduciary director. Under the federal impartiality rules, you have a "covered relationship" with them. See 5 CFR 2635.502(b)(1)(iv). That said, this event takes place after business hours, and you will not be speaking or otherwise presenting information on behalf of the agency. Based on the facts before me, I don't see any reason to conclude that your attendance would raise any concern about a loss of impartiality in performing your official EPA duties.

Please note that this event is a fundraiser. Therefore, NERO cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. You should be placed by NERO wherever they wish to seat you and cannot be seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wheeler, Andrew
Sent: Wednesday, May 30, 2018 3:42 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Justina, I would like to attend this dinner. I have been invited as a guest of NERO. Ideally I would like to attend without paying the government rate since they are a non-profit and have invited me. If that's not possible I'll buy a ticket. Thanks.

From: Executive Director [<mailto:ExecutiveDirector@nationalenergyresources.com>]
Sent: Wednesday, May 30, 2018 12:28 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Executive Director <ExecutiveDirector@nationalenergyresources.com>; Carole Goeas
<Carole@goeasassociates.com>
Subject: Invitation to NERO Annual Dinner

Hi Andy,

I hope all is well! Attached, and below, is the invitation to the annual dinner. The Government rate for an individual ticket is \$75. I have also attached an informational page addressing the ethics questions we typically receive for our events. Happy to address any other questions they may have. Also, can we add you/your EPA email address to our distribution list so that you receive all invites?

Jo Ann Pawela

Administrative Support For Carole Goeas, Executive Director
National Energy Resources Organization (NERO)

<image003.jpg>

<Federal Govt. Ethics - FAQs - 6.21.18 Annual Awards Dinner.pdf>

<06.21.18 NERO Annual Dinner Invitation.pdf>

ANNUAL AWARDS DINNER

NERO

2018

Distinguished Service Awards to

Majority Whip, Rep.

U.S. Senator

STEVE SCALISE *and* HEIDI HEITKAMP

American Energy

[illegible]

THURSDAY
JUNE

21
2018

COCKTAILS 5:30

DINNER 7:00

CAPITOL HILL HYATT REGENCY
400 NEW JERSEY AVE, NW

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

ExecutiveDirector@NationalEnergyResources.com

THIS INVITATION IS NOT TRANSFERABLE

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 5/21/2018 5:29:29 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Mr. Wheeler's recusal

Thanks Justina,

Yup, he told me he was going to get it back to you today.

Michael

From: Fugh, Justina
Sent: Monday, May 21, 2018 1:29 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: Mr. Wheeler's recusal

Hi there,

Just a note to let you know that he sent me a revision to the recusal, and I've sent it back with his changes incorporated. He didn't cc you on the note to me, so I wanted to let you know that the recusal is back with him.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Wheeler, Andrew [wheeler.andrew@epa.gov]
Sent: 5/21/2018 5:10:42 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Wheeler draft recusal statement v2.docx
Attachments: Wheeler draft recusal statement v2.docx

Attached are my comments. Thanks.

National Energy Resources Organization

2018 Annual Awards Dinner – Thursday, June 21, 2018

Federal Government Ethics – Frequently Asked Questions (5/30/18)

- 1.) Who are the sponsors of the event: National Energy Resources Organization (NERO).
- 2.) Are those sponsoring the event non-profit, 501(c)3? or a media organization: Yes, NERO is a 501(c)3.
- 3.) What is the purpose of the event? Is the event a fundraiser? The event is an annual awards dinner, at which NERO will recognize Majority Whip, Rep. Steve Scalise, and Senator Heidi Heitkamp, for their outstanding contributions to the energy industry; individuals who are retiring or have recently retired after several years in the energy industry; and traditional recognition awards for NERO members. Funds will be used to cover the cost of this event, and any amount exceeding that will be used for other NERO-sponsored activities and events.
- 4.) What other types of people are expected to attend? (For example, members from throughout a given industry; other Federal, state, or local government officials; etc.)

Members of NERO, as well as non-members, consisting of executives from public and private utilities, corporations, and associations; state and federal regulators; attorneys; energy retailers; federal and state government employees

NERO's invited guests also consist of: Senators, Members of Congress; House and Senate staff / Federal and state government employees; others as requested

- 5.) Will the attendees represent a range of persons interested in a given matter? If Yes, what matter?

Yes; Energy.

- 6.) Approximately how many people are expected to attend? Approximately 250-300.

- 7.) What is the monetary value of the gift of free attendance (conference fee and/or food, refreshments, entertainment, instruction, and materials furnished to all attendees as an integral part of the event) and how was this cost determined? (Attach separate sheet, if necessary.) Approximately \$75 - \$125 for cocktail reception, sit-down dinner and dessert reception. Total estimated cost of these was divided by an estimated number of attendees.

National Energy Resources Organization
Carole A. Goeas, Executive Director
1707 Prince St., #5, Alexandria, VA 22314
(703) 548-1764

www.nationalenergyresources.com executivedirector@nationalenergyresources.com

Message

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 4/17/2018 8:50:21 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: is Andrew Wheeler here yet?

He will be sworn in now on Friday.

From: Fugh, Justina
Sent: Tuesday, April 17, 2018 3:13 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: is Andrew Wheeler here yet?

I have to set him up for his new employee ethics training and get him to sign the ethics pledge.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Griffo, Shannon [Griffo.Shannon@epa.gov]
Sent: 7/31/2018 5:35:52 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: updated recusal statement
Attachments: Wheeler draft updated recusal statement 7_31_18.docx

Tried to keep it as simple as possible -

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

Message

From: Munoz, Charles [munoz.charles@epa.gov]
Sent: 4/20/2018 1:46:48 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Wheeler

I love it when a plan comes together! Thank you!

Charles Munoz
White House Liaison
Environmental Protection Agency
202-380-7967

From: Fugh, Justina
Sent: Friday, April 20, 2018 9:45 AM
To: Munoz, Charles <munoz.charles@epa.gov>
Subject: RE: Wheeler

Hi there,
Tamika already scheduled me to see him for 30 minutes today, from 2 to 2:30!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Munoz, Charles
Sent: Friday, April 20, 2018 9:44 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Wheeler

Justina,

Andrew Wheeler asked me to have you reach out to him or his special assistant so that you 2 can schedule a quick chat.

Charles Munoz
White House Liaison
Environmental Protection Agency
202-380-7967

Message

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 4/20/2018 4:27:14 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: Meeting with Andrew Wheeler today at 2pm

Thank you.

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Apr 20, 2018, at 12:24 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

It's the short version. We have 30 minutes. Will call you!

From: Minoli, Kevin
Sent: Friday, April 20, 2018 12:24 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Meeting with Andrew Wheeler today at 2pm

Is this the hour or the 15 minutes? Either way I'd like to be looped in on Personal Phone / Ex. 6

Thanks!

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Apr 20, 2018, at 11:14 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Would you like to participate by phone? If so, what number do you want me to call?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 5/24/2018 7:39:06 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Deputy Administrator's signed recusal statement

Can we forward this to staff for their information?

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Fugh, Justina
Sent: Thursday, May 24, 2018 9:16 AM
To: OGC RCs and DRCs <OGC_RCs_and_DRCs@epa.gov>; OGC HQ ADDs <OGC_HQ_ADDs@epa.gov>
Subject: Deputy Administrator's signed recusal statement

Hi there,
Attached please find the signed recusal statement for Andrew Wheeler, the Deputy Administrator, which I am sharing for your general information.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 5/24/2018 3:38:18 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: DA Signed Recusal Statement

Done.

Thank you. MM

Sent from my iPhone

On May 24, 2018, at 9:17 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Thanks! I also sent it to Brian Hope in OEX so that it gets officially "entered" into whatever system of records they have.

From: Molina, Michael
Sent: Thursday, May 24, 2018 9:03 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: RE: DA Signed Recusal Statement

P.S.

Per the cc line, I already provided a copy to Mr. Jackson.

MM

From: Molina, Michael
Sent: Thursday, May 24, 2018 8:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: DA Signed Recusal Statement

Good morning Justina,

Attached is the Deputy Administrator's signed recusal letter. I assume you need the original. I can stop by later today to drop it off. Or, I am in 3320A if you are down this way. Just let me know.

Michael Molina

From: Fugh, Justina
Sent: Friday, May 18, 2018 3:19 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Hey Michael,

Here's the revised recusal statement based on some emails from Andrew Wheeler:

- **Deliberative Process / Ex. 5**

-

Deliberative Process / Ex. 5

Already sent the revised document to him.

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 5/24/2018 1:03:19 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: RE: DA Signed Recusal Statement

P.S.

Per the cc line, I already provided a copy to Mr. Jackson.

MM

From: Molina, Michael
Sent: Thursday, May 24, 2018 8:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: DA Signed Recusal Statement

Good morning Justina,

Attached is the Deputy Administrator's signed recusal letter. I assume you need the original. I can stop by later today to drop it off. Or, I am in 3320A if you are down this way. Just let me know.

Michael Molina

From: Fugh, Justina
Sent: Friday, May 18, 2018 3:19 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Hey Michael,

Here's the revised recusal statement based on some emails from Andrew Wheeler:

• **Deliberative Process / Ex. 5**

Already sent the revised document to him.

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 5/24/2018 12:58:25 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: DA Signed Recusal Statement
Attachments: DA Signed Recusal Statement .pdf

Good morning Justina,

Attached is the Deputy Administrator's signed recusal letter. I assume you need the original. I can stop by later today to drop it off. Or, I am in 3320A if you are down this way. Just let me know.

Michael Molina

From: Fugh, Justina
Sent: Friday, May 18, 2018 3:19 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Hey Michael,

Here's the revised recusal statement based on some emails from Andrew Wheeler:

• **Deliberative Process / Ex. 5**

Already sent the revised document to him.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Veney, Carla [Veney.Carla@epa.gov]
Sent: 7/31/2018 1:04:45 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: FW: how OGC/Ethics spent our day

You're on the calendar at 10:15. Unless he comes to me and asks to see you sooner.

From: Leopold, Matt (OGC)
Sent: Monday, July 30, 2018 10:49 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Veney, Carla <Veney.Carla@epa.gov>
Subject: Re: how OGC/Ethics spent our day

Let's talk in the morning. I'd like to run a question by you.

Sent from my iPhone

On Jul 30, 2018, at 3:23 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,
We've been following up on a few items today:

Updated recusal for Andrew Wheeler

- See attached revision. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

<Wheeler draft updated recusal statement 7_30_18.docx>

<Andrew Wheeler Updated Recusal Attachment.xlsx>

Message

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 7/31/2018 10:12:17 AM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: FOR WHEELER

Deliberative Process / Ex. 5

Thanks! Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 29, 2018, at 9:10 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Kevin,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Friday, July 06, 2018 9:26 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: FOR WHEELER

And maybe I said I'd send the question and never did. Whatever the past...

Deliberative Process / Ex. 5

Let me know if that doesn't make sense and we can talk it through.

Thanks! Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 6, 2018, at 6:43 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, June 27, 2018 7:10 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: FOR WHEELER

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Monday, June 25, 2018 2:23 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: for Andrew Wheeler

FOR ANDREW WHEELER

Deliberative Process / Ex. 5

<DA Signed Recusal Statement .pdf>

<Sites for selected parties International Paper et al - Final_06-27-2018.xlsx>

From: Molina, Michael [molina.michael@epa.gov]
Sent: 7/30/2018 10:49:32 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: how OGC/Ethics spent our day

Deliberative Process / Ex. 5

Thank you Justina

Sent from my iPhone

On Jul 30, 2018, at 3:23 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,
We've been following up on a few items today:

Updated recusal for Andrew Wheeler

- See attached revision.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

<Wheeler draft updated recusal statement 7_30_18.docx>

<Andrew Wheeler Updated Recusal Attachment.xlsx>

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/27/2018 5:29:18 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Wheeler's meetings

I will make sure he spells your name correctly. Thank you for this.

From: Fugh, Justina
Sent: Friday, July 27, 2018 1:27 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: Wheeler's meetings

Hi,

- My last name is Fugh, not Pugh. If he's going to quote me, he might as well get my name right.

-

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Konkus, John
Sent: Friday, July 27, 2018 1:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler's meetings

Follow up question: Can you help?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Corbin Hiar [<mailto:chiar@eenews.net>]

Sent: Friday, July 27, 2018 12:47 PM

To: Konkus, John <konkus.john@epa.gov>

Subject: RE: Wheeler's meetings

Below are the relevant portions of the call transcript, some of which I'd like to use with or without direct attribution.

Also, please excuse typos and whatnot. I'm trying to get these to you ASAP so we can get a follow up into the PM edition. The ALL CAPS stuff is to put the quotes in context or note a question from me.

KONKUS: We gave you a statement yesterday. Everyrthing we said there is true and outlined frankly why Administrator Wheeler is completely within the letter and spirit of the law as you put it to participate in these meetings and it is really important to us that we get into some of the details about what the Trump ethics pledge actually says and how Mr. Wheeler actually followed the law.

your article could potentially be the foundation of a lot of false narrative out there and we just don't want that to happen. And that is why we have two career ethics officials who have seen, through multiple administrations, many of these types of issues come and go and explain why Mr. Wheeler is completely in the clear here and following appropriately his obligations.

PUGH: Maybe it would be helpful for me to explain the definition of former client for purposes of pledge. And just so you know this definition is the same that we had in the Obama ethics pledge so I already have nine and a half years of experience defining what this definition means.

Anybody who falls outside that zone is not a former client. So in the case of Darling Ingredients, the South Coast Air Quality Management District and Archer Daniels Midland, they were not considered to be former clients within the look back of the Trump ethics pledge.

When you look at these Lobbying Disclosure Act forms, and I've unfortunately seen a bunch of them now, they're really all over the place in terms of what people are reporting. There could be multiple parties with multiple issue areas. What we have to do, as all federal ethics officials now must do, is to go through with the appointee to say, OK, here's what your Lobbying Disclosure Act says, but what did you actually do? And we need to do that in order to write the appropriate recusal statement.

In the case of Mr. Wheeler, there may be three people listed for his termination report. But it doesn't mean that that's the date that all three of them last provided lobbying services

It's quite clear that the Office of Government Ethics, in writing its legal advisory, said that we look to the date that the individual appointee last provided individual services. We don't look at the date that is reported on a Lobbying Disclosure Act form. We really have to go with what the individual last did

He just said that he didn't not provide lobbying services to that entity for two years prior to joining the federal service, even though the termination date is May 31st. that may affect the two other people who are listed on the termination report. but he himself did not provide lobbying services for two years prior to joining federal service.

The Office of Government Ethics has a legal advisory that helps federal ethics officials understand what the pledge means. This is the same language that was in the Obama ethics pledge. (IS THIS THE ADVISORY SHE WAS REFERING TO?)

Before you all get to report on somebody being nominated for a position, there's actually a lot of work that's going on under the hood. My office is notified fairly early on about a potential person who's under consideration for a nomination. So way back in summer of 2017, i first started talking to Andrew Wheeler about his financial disclosure report. If you look at the report carefully, you'll see the date that it was signed. Wheeler signed his report on August 2017. He didn't sign it in 2018 when he was confirmed or sworn in. He signed it in August of 2017. That means that, for the purposes of the reporting period within the report that you're talking about, we go back two years prior to August 2017 and ask him to report on all the clients that he had and for every client for whom he received more than \$5,000 in compensation, that must be reported. There is no opportunity to update the report from the time he signs it in August 2017 to when he is nominated and as you know that was a period of nearly six months. That's not my call on this, the office of government ethics prevents him from updating the report. what they have done is they have pre-cleared his report as of the date that they signed it which was October of 2017. That report is then locked down. We do not make any changes to it. The ethics agreement is already written. All of that information is then sent to the Senate Environment and Public Works committee.

SO THE ADM DISCLOSURE STRETCHES BACK TO AUG 2015?

That's a really long time and that is way longer than the zone for the definition of former client

SO WAS HE PAID BY ADM SOMETIME BETWEEN AUG 2015 AND BEFORE APRIL 2016?

I don't know when he was paid my friend. I only know what he was reporting on his financial disclosure report. (IT'D BE GOOD TO NAIL THIS DOWN. COULD WE GET PUGH'S NOTES ON THE TIMING AND PRECISE NATURE OF THE WORK WHEELER DID FOR ADM AND OTHER CLIENTS?)

WHAT ABOUT THE BLOOMBERG QUOTE?

KONKUS: I think he's referring to the trump ethics pledge and his knowledge that he was well within the law, as justina just described.

He is well within the law and standards that every cabinet official and political appointee abides by, he is within the law and that is what he's talking about here. What he's saying is, if i lobbied anybody that had a client in the last two years, then I wouldn't meet with them.

If he didn't understand the law, then this would be problematic. But he understnad the law and is saying 'hey, i am not going to work outside of the Trump ethics pledge and if I lobbied on something in the last two years, I won't take that meeting.' Or something like that. I can't put words in his mouth.

Mr. Wheeler has not even lobbied EPA at all for at least two years, by the way. You know that. OK? So that should be included in every story that E&E writes on this subject. That's the most foundational fact there is

PUGH I don't think it's pushing back. We're making clear to you what the actual facts are.

I don't think it was fair to call them former clients because that's historically accurate but not legally accurate when it comes to the Trump ethics pledge.

It isn't parsing details, sir. It's the actual definition of former client, as articulated in the Trump ethics pledge that we have been following. I don't see how you can use that term to imply that I and my staff don't know what we're doing.

It's right there in the executive order, the definition of former client. so i don't think we're parsing anything. I'm simply trying to explain to you what the definition is.

KONKUS Everybody that is on this field of play has to abide by the exact same rules. So you wouldn't put somebody on this field of play and say your endzone is 25 yards different than the other person's endzone. This is the rule as

understood by every person that signs the Trump ethics pledge, or should be understood, and it certainly is by wheeler. So when you say Sheeler met with former clients, we say, no he didn't. The rules say a former client is such and such.

PUGH Correct.

From: Konkus, John <konkus.john@epa.gov>
Sent: Friday, July 27, 2018 10:57 AM
To: Corbin Hiar <chiar@eenews.net>
Subject: RE: Wheeler's meetings

That would be fine. We will also give you the calendars for the days you inquired about. Thank you Corbin.

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Friday, July 27, 2018 10:55 AM
To: Konkus, John <konkus.john@epa.gov>
Subject: Wheeler's meetings

We're planning a follow up, hopefully for today's PM edition, to more clearly communicate EPA's views on the meetings. Should I transcribe the quotes I'd like to use and then we can discuss how they can be used?

Corbin Hiar
E&E News Reporter
O: 202 446 0438
M: Personal Phone / Ex. 6
T: [@corbinhiar](https://www.instagram.com/corbinhiar)

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS
122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news
Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/27/2018 5:23:45 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: This morning's call

Thank you. **Deliberative Process / Ex. 5** We can talk on the phone if that's easier.

From: Fugh, Justina
Sent: Friday, July 27, 2018 1:19 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: This morning's call

Hi,

The OGE-278 instructions for the reporting requirement for positions are as follows: Reportable positions include those of an officer, director, general partner, limited partner with an active role, proprietor, representative, executor, trustee, employee, or consultant of any for-profit or non-profit organization. This would include a member with an active role in a limited liability company and any managing member. The Office of Government Ethics states further that certain positions are not reportable:

Positions That Are Not Reportable

You do not need to report the following in Part 1:

- Positions held by your spouse or your dependent children.
- Positions held with the United States Government and positions held in an official capacity as a representative of the United States Government.
- Positions held in a religious, social, fraternal, or political organization.
- Positions solely of an honorary nature.
- Mere membership in an organization.
- Passive investment interests as a limited partner or non-managing member of a limited liability company (i.e., you are just an investor and provide no services).

In addition, you do not need to report service as a member of an advisory board or committee if the following criteria are met: (1) your service is unpaid; (2) the board or committee is that of a non-profit or governmental organization; (3) you have no fiduciary duties of the sort exercised by officers, directors, or trustees; and (4) your role does not involve sufficient supervision by the organization to create a common law employee-employer relationship.

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Konkus, John
Sent: Friday, July 27, 2018 12:54 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: This morning's call

Deliberative Process / Ex. 5

Begin forwarded message:

From: "Eilperin, Juliet" <Juliet.Eilperin@washpost.com>
Date: July 27, 2018 at 12:43:36 PM EDT
To: "Konkus, John" <konkus.john@epa.gov>
Subject: RE: This morning's call

Dear John,

Following up on our conversation, here's what I was hoping to get, as soon as you have a chance:

1. A link to Mr. Wheeler's recusal letter, since I'm not finding it easily online.
2. Descriptions of those meetings we discussed, with groups and firms that used to retain Mr. Wheeler or his firm.
3. Clarification on one matter regarding the National Energy Resources Organization: Mr. Wheeler did not list it on his Government Ethics form. He served as Chairman of NERO's Executive Board from 2014 to 2015 and as Chairman Emeritus from 2015 to 2016. Could you explain why it wasn't listed, and did he amend his form to include it at this point. As you may be aware, the group is headed by a Republican political fundraiser.

Thanks so much,
Juliet

-----Original Message-----

From: Konkus, John <konkus.john@epa.gov>
Sent: Friday, July 27, 2018 10:28 AM
To: Eilperin, Juliet <Juliet.Eilperin@washpost.com>; Dennis, Brady <Brady.Dennis@washpost.com>
Subject: RE: This morning's call

Calling you now

-----Original Message-----

From: Eilperin, Juliet [<mailto:Juliet.Eilperin@washpost.com>]
Sent: Friday, July 27, 2018 10:11 AM
To: Konkus, John <konkus.john@epa.gov>; Dennis, Brady <Brady.Dennis@washpost.com>
Subject: RE: This morning's call

Ok, then just call me, at Personal Phone / Ex. 6 I think that's best--Brady can weigh in if he will be free, but I'm guessing that won't be the case. Thanks.

-----Original Message-----

From: Konkus, John <konkus.john@epa.gov>

Sent: Friday, July 27, 2018 10:10 AM

To: Eilperin, Juliet <Juliet.Eilperin@washpost.com>; Dennis, Brady <Brady.Dennis@washpost.com>

Subject: RE: This morning's call

[EXTERNAL EMAIL]

We're on a path to call you around 10:20-10:30

-----Original Message-----

From: Eilperin, Juliet [<mailto:Juliet.Eilperin@washpost.com>]

Sent: Friday, July 27, 2018 9:51 AM

To: Konkus, John <konkus.john@epa.gov>; Dennis, Brady <Brady.Dennis@washpost.com>

Subject: This morning's call

Hey John, if we do the call at 10:15 it would just be me, and you should call my cell, Personal Phone / Ex. 6 If you want to push it later, to 10:30 or 10:45, we could conference in Brady, at Personal Phone / Ex. 6 So just let me know what works on your end. Thanks.

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/26/2018 10:13:44 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Thursday, July 26, 2018 6:12 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Thursday, July 26, 2018 6:04 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

On Jul 26, 2018, at 4:36 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Do you still need this from me? What you have is okay, but if you want my thoughts, then ...

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt
Environmental Protection Agency
Press Secretary

(202) 578-6141

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 5/18/2018 7:21:03 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Introductions

Gracias Justina,

And thank you again for the training and subsequent conversation. We will work on the financial disclosure this weekend.

Michael

From: Fugh, Justina
Sent: Friday, May 18, 2018 3:19 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Hey Michael,
Here's the revised recusal statement based on some emails from Andrew Wheeler:

• **Deliberative Process / Ex. 5**

Already sent the revised document to him.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Friday, May 18, 2018 3:11 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Introductions

Eric,

I just had my Ethics Briefing with Justina. At the end, we discussed all the AD's recusal as I know them (for now).

Thank you so much for your assistance,

Michael

From: Baptist, Erik
Sent: Wednesday, May 16, 2018 9:47 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Michael,

My apologies – I was tied up in meetings all afternoon today. It might make sense to speak with both Kevin Minoli and me about the Deputy's recusal requirements, as Kevin is our Designated Agency Ethics Official.

I am happy to set up that meeting/call, if that works for you.

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Molina, Michael
Sent: Wednesday, May 16, 2018 1:17 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Subject: RE: Introductions

Thank you Erik,

Yes, I would like to talk to you in the near future about the recusal requirements for the Deputy. I have a basic understanding, but I would like to know a little more of the ins-and-outs.

Is there a time this afternoon that I could give you a call?

Michael D. Molina
Senior Advisor to the Deputy Administrator
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972

From: Baptist, Erik
Sent: Tuesday, May 15, 2018 8:29 PM
To: Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Helena,

Thanks for connecting Michael and me.

Michael,

It's nice to meet you over email. It would be great to connect in the near future.

Best,

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Wooden-Aguilar, Helena

Sent: Tuesday, May 15, 2018 5:05 PM

To: Baptist, Erik <Baptist.Erik@epa.gov>

Cc: Molina, Michael <molina.michael@epa.gov>

Subject: Introductions

Hi Erik –

Michael has just started as Andrew's Senior Advisor and I wanted to do quick introductions so that if there are questions or items he would like to raise he has a great contact!

FYI – in AO we are currently working on a delegation issue for Andrew so I recommended having a conversation with you (or whoever you designate).

Thanks,

Helena

Helena Wooden-Aguilar
Acting Deputy Chief of Staff
Office of the Administrator
US Environmental Protection Agency
202-564-0792 (office)

Ex. 6 - Personal Privacy

 (mobile)
wooden-aguilar.helena@epa.gov

Message

From: Hewitt, James [hewitt.james@epa.gov]
Sent: 7/26/2018 8:37:30 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: White, Elizabeth [white.elizabeth@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Konkus, John [konkus.john@epa.gov]; Molina, Michael [molina.michael@epa.gov]
Subject: RE: FOR REVIEW//Wheeler statement

Perfect, thanks.

From: Fugh, Justina
Sent: Thursday, July 26, 2018 4:37 PM
To: Hewitt, James <hewitt.james@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Do you still need this from me? What you have is okay, but if you want my thoughts, then ...

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: White, Elizabeth [white.elizabeth@epa.gov]
Sent: 7/26/2018 8:37:17 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Hewitt, James [hewitt.james@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Konkus, John [konkus.john@epa.gov]; Molina, Michael [molina.michael@epa.gov]
Subject: Re: FOR REVIEW//Wheeler statement

Thank you Justina.

Sent from my iPhone

On Jul 26, 2018, at 4:36 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Do you still need this from me? What you have is okay, but if you want my thoughts, then ...

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: Hewitt, James [hewitt.james@epa.gov]
Sent: 7/26/2018 8:35:42 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: White, Elizabeth [white.elizabeth@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Konkus, John [konkus.john@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: FOR REVIEW//Wheeler statement

Great, thank you. And also this:

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Thursday, July 26, 2018 4:35 PM
To: Hewitt, James <hewitt.james@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Hi there,
See my comments below.
Justina

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 4:02 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Hewitt, James

Sent: Thursday, July 26, 2018 3:47 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <Konkus.John@epa.gov>; Molina, Michael <molina.michael@epa.gov>

Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt

Environmental Protection Agency

Press Secretary

(202) 578-6141

Message

From: Hewitt, James [hewitt.james@epa.gov]
Sent: 7/26/2018 8:02:03 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: White, Elizabeth [white.elizabeth@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Konkus, John [konkus.john@epa.gov]; Molina, Michael [molina.michael@epa.gov]
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <Konkus.John@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: Keith, Jennie [Keith.Jennie@epa.gov]
Sent: 7/26/2018 6:51:19 PM
To: Molina, Michael [molina.michael@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: NERO Luncheon

Michael,

I'm teleworking today, but am happy to have a call with you.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 She is currently engaged as a speaker right now for an event in Crystal City in Arlington, Virginia.

That is suppose to end at 3:30. I assume she is coming back into the office after that. Do you want to try to wait for her?

Jennie for OGC/Ethics

From: Molina, Michael
Sent: Thursday, July 26, 2018 2:45 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Re: NERO Luncheon

Jennie. Can I (and the coms shop) come talk to you on an ethics issue?

Michael.

Sent from my iPhone

On Jul 25, 2018, at 10:54 PM, Keith, Jennie <Keith.Jennie@epa.gov> wrote:

Evening Michael and Aaron,

OGC/Ethics recommends declining this speaking request for the Acting Administrator since he has a one-year cooling-off period with the group. If you review page 3 of his recusal statement under the heading, "Obligations under the Impartiality Provisions," the Acting Administrator cannot participate in matters involving NERO for one year from his resignation date.

This request is different than the one that Justina cleared earlier this year. I believe that request was to attend the organization's annual dinner. There, the Acting Administrator paid for his own ticket to the event. His participation was limited to being an attendee only and did not include any visible participation in the event.

Here, he is being asked to deliver a speech about EPA at a regular speaking series. This is impermissible because he is recused for one-year from participating in his official capacity in matters (such as this speaking engagement) involving NERO.

Michael, I recommend that you or the scheduling staff communicate directly with NERO, on behalf of the Acting Administrator, to decline this event. If you have other ideas or questions, please let me know! The Acting Administrator should not respond to this email, as you will do so on his behalf.

Thanks!

Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 12:47 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: NERO Luncheon

Hi Michael,
Jennie Keith of Team Ethics is going to write back to you about this. Just so you know, though, Mr. Wheeler has a "covered relationship" with NERO since he was formally affiliated with it.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Wednesday, July 25, 2018 12:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: NERO Luncheon

Hi Justina,

Deliberative Process / Ex. 5 and wanted your review.

Thank you.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Wheeler, Andrew" <wheeler.andrew@epa.gov>
Date: July 25, 2018 at 12:11:38 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>
Subject: Fwd: NERO Luncheon

Begin forwarded message:

From: Executive Director
<ExecutiveDirector@nationalenergyresources.com>
Date: July 25, 2018 at 11:05:52 AM EDT
To: "'wheeler.andrew@epa.gov'" <wheeler.andrew@epa.gov>
Subject: NERO Luncheon

Hi Andy,

I'm sorry to interrupt. Hopefully you received a message from us last week, asking if you could speak at an upcoming NERO lunch on Wednesday, Sept. 12; Tuesday, Sept. 24; or Tuesday, Oct 2. The Hyatt contacted us again to see if we could firm up the dates we are holding with them. I know you're extremely busy, but thought I would check back quickly to at least be sure you received the message and if you had any feel for whether any of these dates are possible. Thanks very much for your time and consideration.

Jo Ann
Jo Ann Pawela
National Energy Resources Organization

<DA Signed Recusal Statement .pdf>

Message

From: Keith, Jennie [Keith.Jennie@epa.gov]
Sent: 7/26/2018 3:42:12 PM
To: Molina, Michael [molina.michael@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: NERO Luncheon

Thank you, Michael, for closing the loop with OGC/Ethics! Jennie for OGC/Ethics

From: Molina, Michael
Sent: Thursday, July 26, 2018 11:32 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon

Thank you again,

I called NERO and explained our position and graciously ☺ declined.

Michael

From: Keith, Jennie
Sent: Wednesday, July 25, 2018 10:55 PM
To: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon

Evening Michael and Aaron,

OGC/Ethics recommends declining this speaking request for the Acting Administrator since he has a one-year cooling-off period with the group. If you review page 3 of his recusal statement under the heading, "Obligations under the Impartiality Provisions," the Acting Administrator cannot participate in matters involving NERO for one year from his resignation date.

This request is different than the one that Justina cleared earlier this year. I believe that request was to attend the organization's annual dinner. There, the Acting Administrator paid for his own ticket to the event. His participation was limited to being an attendee only and did not include any visible participation in the event.

Here, he is being asked to deliver a speech about EPA at a regular speaking series. This is impermissible because he is recused for one-year from participating in his official capacity in matters (such as this speaking engagement) involving NERO.

Michael, I recommend that you or the scheduling staff communicate directly with NERO, on behalf of the Acting Administrator, to decline this event. If you have other ideas or questions, please let me know! The Acting Administrator should not respond to this email, as you will do so on his behalf.

Thanks!
Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 12:47 PM

To: Molina, Michael <molina.michael@epa.gov>

Cc: Keith, Jennie <Keith.Jennie@epa.gov>

Subject: RE: NERO Luncheon

Hi Michael,

Jennie Keith of Team Ethics is going to write back to you about this. Just so you know, though, Mr. Wheeler has a "covered relationship" with NERO since he was formally affiliated with it.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael

Sent: Wednesday, July 25, 2018 12:39 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Fwd: NERO Luncheon

Hi Justina,

Deliberative Process / Ex. 5 and wanted your review.

Thank you.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Wheeler, Andrew" <wheeler.andrew@epa.gov>

Date: July 25, 2018 at 12:11:38 PM EDT

To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>

Subject: Fwd: NERO Luncheon

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>

Date: July 25, 2018 at 11:05:52 AM EDT

To: "wheeler.andrew@epa.gov" <wheeler.andrew@epa.gov>

Subject: NERO Luncheon

Hi Andy,

I'm sorry to interrupt. Hopefully you received a message from us last week, asking if you could speak at an upcoming NERO lunch on Wednesday, Sept. 12; Tuesday, Sept. 24; or Tuesday, Oct 2. The

Hyatt contacted us again to see if we could firm up the dates we are holding with them. I know you're extremely busy, but thought I would check back quickly to at least be sure you received the message and if you had any feel for whether any of these dates are possible. Thanks very much for your time and consideration.

Jo Ann

Jo Ann Pawela

National Energy Resources Organization

Message

From: Wheeler, Andrew [wheeler.andrew@epa.gov]
Sent: 5/18/2018 5:59:17 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: FW: NERO Website

This is from the Executive Director of NERO. Let me know if you need any additional information. I believe the fiduciary officers were/are the Executive Director, permanent Treasurer, and permanent Secretary. They also have a permanent GC. I never served in any of those roles. I never had the capacity even as the Chairman three years ago to sign checks, tax statements, etc. Thanks.

From: Carole Goeas [mailto:Carole@goeasassociates.com]
Sent: Friday, May 18, 2018 1:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: JoAnn Pawela <JoAnn@goeasassociates.com>; Executive Director <ExecutiveDirector@nationalenergyresources.com>
Subject: Re: NERO Website

Will take care of the website ASAP.

No fiduciary responsibility with NERO as a Board member. Do you need me to send anything to the ethics office?

Please give a shout if we can do anything else for you.

All the best,

Carole

Carole Goeas

Carole Goeas and Associates, LLC

1707 Prince Street, #5, Alexandria, VA 22314

Cell: Personal Phone / Ex. 6

Carole@GoeasAssociates.com

www.GoeasAssociates.com



On May 18, 2018, at 1:05 PM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Carole, can you please remove me from the NERO website as soon as you can. Also I need to clarify whether or not I had a fiduciary role with NERO. I don't believe that I did, at least not as a board member. I never had authority over checks, etc. I need to clear this up with EPA ethics before I can do anything with the organization. Thanks.

Andrew R. Wheeler
Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-4711

Message

From: Wheeler, Andrew [wheeler.andrew@epa.gov]
Sent: 5/18/2018 5:14:23 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: Ethics Agreement

I read over it, **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Friday, May 18, 2018 10:56 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: RE: Ethics Agreement

Hi there,

Actually, earlier today, I dropped off a package of materials with Carly:

- Draft recusal
- Cheat sheet for answering the ethics agreement compliance form
- Advice about the restaurant, Lucky Buns

Plus, I will see Michael Molina early this afternoon for his new employee ethics orientation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Friday, May 18, 2018 10:53 AM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Ethics Agreement

Andrew- Justina and I just discussed the plan to get you the draft yesterday, in fact, and so we expect to be able to have a draft to you today.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel

US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 18, 2018, at 8:15 AM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Can I get the next draft of my ethics agreement back? I want to finalize it and give it to my assistants.

Deliberative Process / Ex. 5

Thank you.

Andrew R. Wheeler
Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-4711

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/26/2018 1:31:28 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: final answer

Thank you both.

From: Fugh, Justina
Sent: Thursday, July 26, 2018 9:17 AM
To: Konkus, John <konkus.john@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: final answer

Deliberative Process / Ex. 5

Message

From: Molina, Michael [molina.michael@epa.gov]
Sent: 7/26/2018 12:51:48 PM
To: Keith, Jennie [Keith.Jennie@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: NERO Luncheon

Thank you Jennie

From: Keith, Jennie
Sent: Wednesday, July 25, 2018 10:55 PM
To: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon

Evening Michael and Aaron,

OGC/Ethics recommends declining this speaking request for the Acting Administrator since he has a one-year cooling-off period with the group. If you review page 3 of his recusal statement under the heading, "Obligations under the Impartiality Provisions," the Acting Administrator cannot participate in matters involving NERO for one year from his resignation date.

This request is different than the one that Justina cleared earlier this year. I believe that request was to attend the organization's annual dinner. There, the Acting Administrator paid for his own ticket to the event. His participation was limited to being an attendee only and did not include any visible participation in the event.

Here, he is being asked to deliver a speech about EPA at a regular speaking series. This is impermissible because he is recused for one-year from participating in his official capacity in matters (such as this speaking engagement) involving NERO.

Michael, I recommend that you or the scheduling staff communicate directly with NERO, on behalf of the Acting Administrator, to decline this event. If you have other ideas or questions, please let me know! The Acting Administrator should not respond to this email, as you will do so on his behalf.

Thanks!
Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 12:47 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: NERO Luncheon

Hi Michael,
Jennie Keith of Team Ethics is going to write back to you about this. Just so you know, though, Mr. Wheeler has a "covered relationship" with NERO since he was formally affiliated with it.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Wednesday, July 25, 2018 12:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: NERO Luncheon

Hi Justina,

Deliberative Process / Ex. 5 and wanted your review.

Thank you.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Wheeler, Andrew" <wheeler.andrew@epa.gov>
Date: July 25, 2018 at 12:11:38 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>
Subject: Fwd: NERO Luncheon

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>
Date: July 25, 2018 at 11:05:52 AM EDT
To: "wheeler.andrew@epa.gov" <wheeler.andrew@epa.gov>
Subject: NERO Luncheon

Hi Andy,

I'm sorry to interrupt. Hopefully you received a message from us last week, asking if you could speak at an upcoming NERO lunch on Wednesday, Sept. 12; Tuesday, Sept. 24; or Tuesday, Oct 2. The Hyatt contacted us again to see if we could firm up the dates we are holding with them. I know you're extremely busy, but thought I would check back quickly to at least be sure you received the message and if you had any feel for whether any of these dates are possible. Thanks very much for your time and consideration.

Jo Ann
Jo Ann Pawela
National Energy Resources Organization

Message

From: Keith, Jennie [Keith.Jennie@epa.gov]
Sent: 7/26/2018 2:54:40 AM
To: Molina, Michael [molina.michael@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: NERO Luncheon
Attachments: DA Signed Recusal Statement .pdf

Evening Michael and Aaron,

OGC/Ethics recommends declining this speaking request for the Acting Administrator since he has a one-year cooling-off period with the group. If you review page 3 of his recusal statement under the heading, "Obligations under the Impartiality Provisions," the Acting Administrator cannot participate in matters involving NERO for one year from his resignation date.

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Here, he is being asked to deliver a speech about EPA at a regular speaking series. This is impermissible because he is recused for one-year from participating in his official capacity in matters (such as this speaking engagement) involving NERO.

Michael, I recommend that you or the scheduling staff communicate directly with NERO, on behalf of the Acting Administrator, to decline this event. If you have other ideas or questions, please let me know! The Acting Administrator should not respond to this email, as you will do so on his behalf.

Thanks!
Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 12:47 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: NERO Luncheon

Hi Michael,
Jennie Keith of Team Ethics is going to write back to you about this. Just so you know, though, Mr. Wheeler has a "covered relationship" with NERO since he was formally affiliated with it.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Wednesday, July 25, 2018 12:39 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Fwd: NERO Luncheon

Hi Justina,

Deliberative Process / Ex. 5 and wanted your review.

Thank you.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Wheeler, Andrew" <wheeler.andrew@epa.gov>

Date: July 25, 2018 at 12:11:38 PM EDT

To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>

Subject: Fwd: NERO Luncheon

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>

Date: July 25, 2018 at 11:05:52 AM EDT

To: "'wheeler.andrew@epa.gov'" <wheeler.andrew@epa.gov>

Subject: NERO Luncheon

Hi Andy,

I'm sorry to interrupt. Hopefully you received a message from us last week, asking if you could speak at an upcoming NERO lunch on Wednesday, Sept. 12; Tuesday, Sept. 24; or Tuesday, Oct 2. The Hyatt contacted us again to see if we could firm up the dates we are holding with them. I know you're extremely busy, but thought I would check back quickly to at least be sure you received the message and if you had any feel for whether any of these dates are possible. Thanks very much for your time and consideration.

Jo Ann

Jo Ann Pawela

National Energy Resources Organization



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Griffo, Shannon [Griffo.Shannon@epa.gov]
Sent: 7/26/2018 2:37:02 AM
To: Konkus, John [konkus.john@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: Wheeler meetings with former clients

Only one comment from me

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,
Shannon

On Jul 25, 2018, at 9:48 PM, Konkus, John <konkus.john@epa.gov> wrote:

Thank you.

On Jul 25, 2018, at 9:45 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

John,

Shannon and I talked about this, and

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I'm asking

Shannon to review this revision below since she starts work very early.

Justina

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Wednesday, July 25, 2018 4:00 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Would you both mind taking a look at this draft statement:

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 3:02 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Hi John,

Deliberative Process / Ex. 5

Am copying Shannon Griffo of EPA Ethics as she has a lot of experience with the pledge.
Justina

From: Konkus, John
Sent: Wednesday, July 25, 2018 2:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler meetings with former clients

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, July 25, 2018 1:56 PM
To: Press <Press@epa.gov>
Subject: Wheeler meetings with former clients

Hi, we're planning to report in tomorrow's Greenwire on several meetings Wheeler has had with four former clients that appear to violate the letter or spirit of the Trump ethics pledge or EPA recusal statement he signed.

The meetings in focus involve Darling Ingredients (June 26), Archer Daniels Midland (May 24), the South Coast Air Quality Management District (June 22) and Mark Sutton, the chairman and CEO of International Paper (June 6, June 28 and 29).

In signing the ethics pledge, Wheeler vowed to "not for a period of two years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients." All of the previously mentioned meetings with former clients took place during his first three months in office.

The pledge also requires former lobbyists like Wheeler to not participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls." Faegre filed a termination report for Wheeler's lobbying work with Darling on July 19, 2016, less than 24 months before his EPA public calendar shows he met with his former client.

And in his EPA recusal statement, Wheeler acknowledged that "If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective." None of the meetings appears to have included five parties.

With all that in mind, how do these meetings not violate the ethics pledge? Were there four other parties in the meetings that weren't listed in Wheeler's public calendar? If not, how did those meetings not violate his recusal statement, particularly the ones with Sutton, since the statement specifically prohibits him "from participating in any particular matter involving" International Paper? Has Wheeler obtained ethics waivers to participate in any meetings, particularly the ones mentioned above?

Also, does Wheeler still stand by his statement, made to Bloomberg on June 27, that "If I lobbied on something, I don't think it's appropriate for me to participate"?

Please get back to me with any additional information or comments by Thursday at 10 a.m.

Best, C

Corbin Hiar

E&E News Reporter

O: 202.446.0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/27/2018 10:45:58 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Re: if you've seen this story about Congress asking OGE to look into Wheeler's meetings ...

Thank you for the heads up.

Sent from my iPhone

On Jul 27, 2018, at 6:08 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Deliberative Process / Ex. 5

Top Democrats Seek Ethics Investigation Into EPA Chief Over Meetings With Former Lobbying Clients

July 27, 2018 (Washington, D.C.) – Rep. Beyer (D-VA) led a group of House Democrats today asking the Acting Director of the Office of Government Ethics (OGE) for a review of recent meetings between Acting EPA Administrator Andrew Wheeler and his former lobbying clients. The inquiry followed [reporting by E&E](#) that Wheeler met with at least three clients of Wheeler's former lobbying firm this summer, which may have violated his Trump Administration ethics pledge.

The Representatives wrote:

"Acting Administrator Wheeler served as a registered lobbyist for Faegre Baker Daniels until May 31, 2016, according to disclosure filings. His political appointment to the position of Deputy Administrator of the EPA began on April 20, 2017, and therefore Wheeler should have recused himself from all matters involving his former clients until at least April 20, 2019.

His pledge notwithstanding, Wheeler reportedly met with former clients repeatedly while serving as Deputy Administrator. His public calendar shows meetings with his former client, "Darling Ingredients," on June 26, 2018, the South Coast Air Quality Management District on June 22, 2018, and Archer Daniels Midland Co. (listed on his calendar as "ADM") on May 24, 2018. All of these companies have business interests which would be significantly affected by pending EPA regulations, and all paid Wheeler and his former lobbying firm Faegre Baker Daniels thousands of dollars for lobbying work.

Andrew Wheeler is the Acting Administrator of the EPA because of the departure of Administrator Scott Pruitt, which occurred under a cloud of ethical controversy and scandal that tarnished the reputation of the Agency. That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard.

For these reasons, we ask that the Office of Government Ethics investigate the matter of Acting EPA Administrator Wheeler's involvement with past lobbying clients to determine whether his previous meetings may have violated his ethics pledge. We also ask that you clarify which clients, and which regulatory matters affecting them, merit future recusals by the Acting Administrator in order to comply with both the spirit and the letter of ethics rules."

The Representatives also noted a filing with the Senate by Faegre Baker Daniels which says that Andrew Wheeler lobbied on behalf of its client Darling International Inc, one of the companies with whom he later met, during the period ending in May of 2016, which is within the window of his ethics pledge. The filing reports \$40,000 paid by Darling to Faegre for lobbying by Wheeler and others in 2016.

The letter was signed by Reps. Beyer, Raja Krishnamoorthi (D-IL), Pramila Jayapal (D-WA), and Jamie Raskin (D-MD). Text follows, and a signed copy is available [here](#).

July 27, 2018

David J. Apol
Acting Director
Office of Government Ethics
1201 New York Avenue, N.W. Suite 500
Washington, D.C. 20005

Dear Acting Director Apol:

We write regarding reports that Acting Environmental Protection Agency (EPA) Administrator Andrew Wheeler may have violated his ethics pledge by meeting with former lobbying clients.^[1]

The Trump Administration ethics pledge was established by Executive Order shortly after the President took office, and includes the following section:

6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.^[2]

Acting Administrator Wheeler served as a registered lobbyist for Faegre Baker Daniels until May 31, 2016, according to disclosure filings.^[3] His political appointment to the position of Deputy Administrator of the EPA began on April 20, 2017, and therefore Wheeler should have recused himself from all matters involving his former clients until at least April 20, 2019.

His pledge notwithstanding, Wheeler reportedly met with former clients repeatedly while serving as Deputy Administrator. His public calendar shows meetings with his former client, “Darling Ingredients,” on June 26, 2018, the South Coast Air Quality Management District on June 22, 2018, and Archer Daniels Midland Co. (listed on his calendar as “ADM”) on May 24, 2018.^[4] All of these companies have business interests which would be significantly affected by pending EPA regulations, and all paid Wheeler and his former lobbying firm Faegre Baker Daniels thousands of dollars for lobbying work. Wheeler was even listed as a lead lobbyist for Darling

^[1] Hiar, Corbin. “Despite His Assurances, Wheeler Met With Former Clients.” *E&E News*, July 26, 2018.

<https://www.eenews.net/stories/1060091287>

^[2] Executive Order 13770. January 28, 2017.

[https://www2.oge.gov/web/oge/nsf/Resources/Executive+Order+13770+\(Jan.+28,+2017\)+Ethics+Commitments+by+Executive+Branch+Appointees](https://www2.oge.gov/web/oge/nsf/Resources/Executive+Order+13770+(Jan.+28,+2017)+Ethics+Commitments+by+Executive+Branch+Appointees)

^[3] <http://disclosures.house.gov/ld/idxmlrelease/2016/2T/300812852.xml>

^[4] E.P.A. Public Calendar for Andrew Wheeler, Acting Administrator <https://www.epa.gov/senior-leaders-calendars/calendar-andrew-wheeler-acting-administrator>

International (now known as Darlington Ingredients) on lobbying filing disclosures as recently as the second quarter of 2016, just over two years prior to his meeting with them as Acting EPA Administrator.^[5]

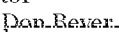

Andrew Wheeler is the Acting Administrator of the EPA because of the departure of Administrator Scott Pruitt, which occurred under a cloud of ethical controversy and scandal that tarnished the reputation of the Agency. That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard.

For these reasons, we ask that that the Office of Government Ethics investigate the matter of Acting EPA Administrator Wheeler's involvement with past lobbying clients to determine whether his previous meetings may have violated his ethics pledge. We also ask that you clarify which clients, and which regulatory matters affecting them, merit future recusals by the Acting Administrator in order to comply with both the spirit and the letter of ethics rules.

Sincerely,

###

Aaron Fritschner
Communications Director

Office of Congressman 
O: (202) 225-4376 | M:  Personal Phone / Ex. 6

<image001.png> <image002.png> <image003.png> <image004.png>

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^[5] Lobbying Disclosure Act of 1995 Filing, July 19, 2016.

<https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=6DEBD4B7-F9A1-4FF4-B502-68A068403D54&filingTypeID=62>

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/27/2018 10:10:14 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: House Democrats call for investigation of Wheeler meetings with former clients

I'm going to email her this:

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Friday, July 27, 2018 6:03 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: House Democrats call for investigation of Wheeler meetings with former clients

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Friday, July 27, 2018 5:53 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: House Democrats call for investigation of Wheeler meetings with former clients

Deliberative Process / Ex. 5

From: POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]
Sent: Friday, July 27, 2018 5:48 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: House Democrats call for investigation of Wheeler meetings with former clients

By Emily Holden

07/27/2018 05:46 PM EDT

House Democrats are asking the Office of Government Ethics to review acting EPA Administrator Andrew Wheeler's meetings with companies that employed him as a lobbyist.

Rep. Don Beyer (D-Va.) and several colleagues sent a letter to the independent agency today following reporting from E&E News that Wheeler met with at least three former clients in recent months as deputy administrator. They pointed to previous Administrator Scott Pruitt's resignation "under a cloud of ethical controversy" among the reasons for their concern.

"That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard," wrote Beyer and Reps. Raja Krishnamoorthi (D-Ill.), Pramila Jayapal (D-Wash.), and Jamie Raskin (D-Md.).

EPA ethics reviews essentially operate on the honor system to ensure Wheeler is abiding by the Trump administration's pledge to avoid dealing with companies for whom he lobbied within the previous two years.

"We rely on the disclosures of an individual," ethics official Justina Fugh told POLITICO.

But public forms list Wheeler as a lobbyist for former clients less than two years before he was sworn in as deputy administrator on April 20. For example, Wheeler's former firm, Faegre Baker Daniels Consulting, did not disclose that it stopped lobbying for Darling Ingredients until May 31, 2016.

Fugh said Darling was not on a list Wheeler had submitted of lobbying clients in the prior two years. She said he also can meet with past clients that are subject to the pledge in certain group settings.


WHAT'S NEXT: The Democrats asked OGE to determine whether Wheeler had violated his pledge and to clarify its terms.

To view online:

<https://subscriber.politicopro.com/energy/whiteboard/2018/07/house-democrats-call-for-investigation-of-wheeler-meetings-with-former-clients-1680334>

Was this Pro content helpful? Tell us what you think in one click.


Yes, very


Somewhat


Neutral


Not really


Not at all

You received this POLITICO Pro content because your customized settings include: Energy: EPA. To change your alert settings, please go to <https://subscriber.politicopro.com/settings>

POLITICOPRO

This email was sent to konkus.john@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

From: Konkus, John [konkus.john@epa.gov]
Sent: 7/27/2018 8:31:35 PM
To: Emily Holden [eholden@politico.com]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Any additional comment on this update?

Please use what we provided via the phone call earlier. You can also use this: The reporting in the E&E article was incorrect, a career EPA ethics official provided the corrections to E&E and to Politico among others today to ensure the facts are reported accurately going forward.

From: Emily Holden [mailto:eholden@politico.com]
Sent: Friday, July 27, 2018 4:24 PM
To: Konkus, John <konkus.john@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Any additional comment on this update?

Hi there—just wanted to follow up since I just received this. Let me know if you have any comment beyond our earlier discussion. And have a nice weekend.

Top Democrats Seek Ethics Investigation Into EPA Chief Over Meetings With Former Lobbying Clients

July 27, 2018 (Washington, D.C.) – Rep. Beyer (D-VA) led a group of House Democrats today asking the Acting Director of the Office of Government Ethics (OGE) for a review of recent meetings between Acting EPA Administrator Andrew Wheeler and his former lobbying clients. The inquiry followed [reporting by E&E](#) that Wheeler met with at least three clients of Wheeler's former lobbying firm this summer, which may have violated his Trump Administration ethics pledge.

The Representatives wrote:

"Acting Administrator Wheeler served as a registered lobbyist for Faegre Baker Daniels until May 31, 2016, according to disclosure filings. His political appointment to the position of Deputy Administrator of the EPA began on April 20, 2017, and therefore Wheeler should have recused himself from all matters involving his former clients until at least April 20, 2019.

His pledge notwithstanding, Wheeler reportedly met with former clients repeatedly while serving as Deputy Administrator. His public calendar shows meetings with his former client, "Darling Ingredients," on June 26, 2018, the South Coast Air Quality Management District on June 22, 2018, and Archer Daniels Midland Co. (listed on his calendar as "ADM") on May 24, 2018. All of these companies have business interests which would be significantly affected by pending EPA regulations, and all paid Wheeler and his former lobbying firm Faegre Baker Daniels thousands of dollars for lobbying work.

Andrew Wheeler is the Acting Administrator of the EPA because of the departure of Administrator Scott Pruitt, which occurred under a cloud of ethical controversy and scandal that tarnished the reputation of the Agency. That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard.

For these reasons, we ask that the Office of Government Ethics investigate the matter of Acting EPA Administrator Wheeler's involvement with past lobbying clients to determine whether his previous meetings may have violated his ethics pledge. We also ask that you clarify which clients, and which regulatory matters affecting them, merit future recusals by the Acting Administrator in order to comply with both the spirit and the letter of ethics rules."

The Representatives also noted a filing with the Senate by Faegre Baker Daniels which says that Andrew Wheeler lobbied on behalf of its client Darling International Inc, one of the companies with whom he later met, during the period ending in May of 2016, which is within the window of his ethics pledge. The filing reports \$40,000 paid by Darling to Faegre for lobbying by Wheeler and others in 2016.

The letter was signed by Reps. Beyer, Raja Krishnamoorthi (D-IL), Pramila Jayapal (D-WA), and Jamie Raskin (D-MD). Text follows, and a signed copy is available [here](#).

July 27, 2018

David J. Apol
Acting Director
Office of Government Ethics
1201 New York Avenue, N.W. Suite 500
Washington, D.C. 20005

Dear Acting Director Apol:

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The Trump Administration ethics pledge was established by Executive Order shortly after the President took office, and includes the following section:

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^[1] Hiar, Corbin. “Despite His Assurances, Wheeler Met With Former Clients.” *E&E News*, July 26, 2018.

<https://www.eenews.net/stories/1060091287>

^[2] Executive Order 13770. January 28, 2017.

[https://www2.oge.gov/web/oge.nsf/Resources/Executive+Order+13770+\(Jan.+28,+2017\)+Ethics+Commitments+by+Executive+Branch+Appointees](https://www2.oge.gov/web/oge.nsf/Resources/Executive+Order+13770+(Jan.+28,+2017)+Ethics+Commitments+by+Executive+Branch+Appointees)

^[3] <http://disclosures.house.gov/ld/idxmlrelease/2016/2T/300812852.xml>

^[4] E.P.A. Public Calendar for Andrew Wheeler, Acting Administrator <https://www.epa.gov/senior-leaders-calendars/calendar-andrew-wheeler-acting-administrator>

Darling International (now known as Darlington Ingredients) on lobbying filing disclosures as recently as the second quarter of 2016, just over two years prior to his meeting with them as Acting EPA Administrator.^[5]

Andrew Wheeler is the Acting Administrator of the EPA because of the departure of Administrator Scott Pruitt, which occurred under a cloud of ethical controversy and scandal that tarnished the reputation of the Agency. That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard.

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Sincerely,

###

Aaron Fritschner
Communications Director
Office of Congressman Don Beyer

O: (202) 225-4376 | M:

Personal Phone / Ex. 6



^[5] Lobbying Disclosure Act of 1995 Filing, July 19, 2016.

<https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=6DEBD4B7-F9A1-4FF4-B502-68A068403D54&filingTypeID=62>

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/3/2018 8:11:23 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: Confirmation Needed ASAP Please

Deliberative Process / Ex. 5

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Leopold, Matt (OGC)
Sent: Friday, August 03, 2018 3:44 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Fwd: Confirmation Needed ASAP Please

Deliberative Process / Ex. 5 Thanks

Sent from my iPhone

Begin forwarded message:

From: "Konkus, John" <konkus.john@epa.gov>
Date: August 3, 2018 at 3:37:37 PM EDT
To: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Chancellor, Erin" <chancellor.erin@epa.gov>
Cc: "Abboud, Michael" <abboud.michael@epa.gov>
Subject: Confirmation Needed ASAP Please

Deliberative Process / Ex. 5

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/25/2018 7:03:03 PM
To: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: Wheeler meetings with former clients

I gotta go to a meeting from 3 to 4, so sent you and Konkus my quick thoughts.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Griffo, Shannon
Sent: Wednesday, July 25, 2018 3:02 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Wheeler meetings with former clients

Yes. Thinking it over now.

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 2:49 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Can you take a look at this with me? We have a few hours to think about this....

From: Konkus, John
Sent: Wednesday, July 25, 2018 2:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler meetings with former clients

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, July 25, 2018 1:56 PM
To: Press <Press@epa.gov>
Subject: Wheeler meetings with former clients

Hi, we're planning to report in tomorrow's Greenwire on several meetings Wheeler has had with four former clients that appear to violate the letter or spirit of the Trump ethics pledge or EPA recusal statement he signed.

The meetings in focus involve Darling Ingredients (June 26), Archer Daniels Midland (May 24), the South Coast Air Quality Management District (June 22) and Mark Sutton, the chairman and CEO of International Paper (June 6, June 28 and 29).

In signing the ethics pledge, Wheeler vowed to "not for a period of two years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients." All of the previously mentioned meetings with former clients took place during his first three months in office.

The pledge also requires former lobbyists like Wheeler to not participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls." Faegre filed a termination report for Wheeler's lobbying work with Darling on July 19, 2016, less than 24 months before his EPA public calendar shows he met with his former client.

And in his EPA recusal statement, Wheeler acknowledged that "If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective." None of the meetings appears to have included five parties.

With all that in mind, how do these meetings not violate the ethics pledge? Were there four other parties in the meetings that weren't listed in Wheeler's public calendar? If not, how did those meetings not violate his recusal statement, particularly the ones with Sutton, since the statement specifically prohibits him "from participating in any particular matter involving" International Paper? Has Wheeler obtained ethics waivers to participate in any meetings, particularly the ones mentioned above?

Also, does Wheeler still standby his statement, made to Bloomberg on June 27, that "If I lobbied on something, I don't think it's appropriate for me to participate"?

Please get back to me with any additional information or comments by Thursday at 10 a.m.

Best, C

Corbin Hiar

E&E News Reporter

O: 202 446 0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/25/2018 7:02:23 PM
To: Konkus, John [konkus.john@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: Wheeler meetings with former clients

Hi John,

Deliberative Process / Ex. 5

Am copying Shannon Griffo of EPA Ethics as she has a lot of experience with the pledge.
Justina

From: Konkus, John
Sent: Wednesday, July 25, 2018 2:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler meetings with former clients

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, July 25, 2018 1:56 PM
To: Press <Press@epa.gov>
Subject: Wheeler meetings with former clients

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Please get back to me with any additional information or comments by Thursday at 10 a.m.

Best, C

Corbin Hiar

E&E News Reporter

O: 202 446 0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

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122 C St NW, 7th Fl; Washington, DC, 20001

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/19/2018 3:42:08 AM
To: Jennie Keith [Keith.Jennie@epa.gov]
Subject: RE: NERO Luncheon Series

Deliberative Process / Ex. 5

From: Dickerson, Aaron
Sent: Wednesday, July 18, 2018 6:23 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: NERO Luncheon Series

Hi Jennie/Justina

Jennie - Thanks again for the briefing today as it was very helpful. Below is the lunch series from NERO **Deliberative Process / Ex. 5** He previously received approval from Justina to attend a NERO dinner which he paid for himself, but this is a speaking request. Can you please advise?

Thank you.

From: Molina, Michael
Sent: Monday, July 16, 2018 3:15 PM
To: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: Re: NERO Luncheon Series

Deliberative Process / Ex. 5 MM

Sent from my iPhone

On Jul 16, 2018, at 2:40 PM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>
Date: July 16, 2018 at 12:43:23 PM EDT
To: "'wheeler.andrew@epa.gov'" <wheeler.andrew@epa.gov>
Subject: NERO Luncheon Series

Hi Andy,

Congratulations on your new role at EPA! I hope all is going well. It should come as no surprise that NERO would love for you speak at one of our lunches. Before sending a formal invite, I

thought I might just initially reach out to you personally to see if it was something you would be interested in doing.

We have a few target dates in mind based on Hyatt availability, but certainly will work around your availability if you're able to fit it in. The dates we are targeting are: Wednesday, Sept. 12; Tuesday, Sept. 24; and Tuesday, Oct 2.

When you have a moment, please let us know. Thanks so much!

Jo Ann Pawela
National Energy Resources Organization (NERO)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/25/2018 4:47:10 PM
To: Molina, Michael [molina.michael@epa.gov]
CC: Keith, Jennie [Keith.Jennie@epa.gov]
Subject: RE: NERO Luncheon

Hi Michael,

Jennie Keith of Team Ethics is going to write back to you about this. Just so you know, though, Mr. Wheeler has a "covered relationship" with NERO since he was formally affiliated with it.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Wednesday, July 25, 2018 12:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: NERO Luncheon

Hi Justina,

Deliberative Process / Ex. 5 and wanted your review.

Thank you.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Wheeler, Andrew" <wheeler.andrew@epa.gov>
Date: July 25, 2018 at 12:11:38 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>
Subject: Fwd: NERO Luncheon

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>
Date: July 25, 2018 at 11:05:52 AM EDT
To: "wheeler.andrew@epa.gov" <wheeler.andrew@epa.gov>
Subject: NERO Luncheon

Hi Andy,

I'm sorry to interrupt. Hopefully you received a message from us last week, asking if you could speak at an upcoming NERO lunch on Wednesday, Sept. 12; Tuesday, Sept. 24; or Tuesday, Oct 2. The Hyatt contacted us again to see if we could firm up the dates we are holding with them. I know you're extremely busy, but thought I would check back quickly to at least be sure you received the message and if you had any feel for whether any of these dates are possible. Thanks very much for your time and consideration.

Jo Ann

Jo Ann Pawela

National Energy Resources Organization

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/17/2018 6:02:54 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]; Keith, Jennie [Keith.Jennie@epa.gov]
Subject: RE: Question re policy signing ceremony

Hi Tate,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Bennett, Tate
Sent: Tuesday, July 17, 2018 11:34 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Question re policy signing ceremony

Hi Justina-

Deliberative Process / Ex. 5

Thanks for any info you might be able to provide.

Tate

Elizabeth Tate Bennett
Associate Administrator for Public Engagement & Environmental Education
Office of the Administrator
U.S. Environmental Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov